

SUPREME COURT
STATE OF WASHINGTON
2000 SEP 22 P 11:55

39080-9-II

No. ~~82149-6~~

83284-6

CLERK

THE SUPREME COURT

OF THE STATE OF WASHINGTON

TEDDY GLEN TALLEY
PETITIONER

PERSONAL RESTRAINT
PETITIONER

BY RONALD L. CARPENTER
CLERK

08 SEP -4

AM 7:54

RECEIVED
STATE OF WASHINGTON
SUPREME COURT

A. Status of Petitioner

Teddy Glen Talley is currently in the custody of the Washington State Department of Corrections (DOC), housed at McNeil Island Corrections Center (MICC). Mr. Talley seeks relief from his Jailors, Agencies, or Departments in joint working divisions of that Executive Branch of Government, in their refusal to award Mr. Talley 55-days "Early Release Time".

1. Mr. Talley is in custody pursuant to an order of Judgment and Sentence imposed by the Skamania County Superior Court. Judgment And Sentence (JS), App. A.

2. Mr. Talley entered into a plea agreement

after being charged for Murder in the 2nd degree pursuant to RCW 9A.32.050(1)(a).

3. Judge E. Thompson Reynolds was the presiding Judge in this case.

4. Peter S. Banks, WSPA #7174 was the Prosecuting Attorney for the State.

5. Steven W. Thayer, WSBA #7449 Defense Attorney

6. Following Teddy Talley's plea agreement for Murder in the 2nd degree 2005 murder, in 2007, the sentencing court imposed a sentence of 123-months' incarceration. JS App. A.

7. If Mr. Talley were to serve out his entire sentence without "Earned Release Time", he would have served 3,743-days, his release date would be January 29, 2016. App. D.

8. Mr. Talley was eligible for earned release time, which is defined in the Washington Administrative Code (WAC) 137-28-160 as "the combined earned time and good conduct time. DIRECTIVE: DOC 350.100 II.A.I; RCW 9.94A.728(1).

9. If Mr. Talley were given the full 10% earned release time, he would have served 3,369-days, his release date would then be January 17,

2015. The Jailor, Agencies, or Departments in joint working divisions of that Executive Branch of Government holding Mr. Talley in custody, denies Mr. Talley his 55-days "Earned Release Time".

10. In addition, Mr. Talley should also be awarded 1.11 days for each month for which he is incarcerated under the rule of lenity due to the ambiguity of the language found in DIRECTIVE DOC 350.100 II.A.I, which alleges to provide an inmate with the ability to earn early release credit by a created incentive for inmates to follow internal rules through false/and or misleading information.

B. Ground for Relief

Ground I

"Violating The U.S. Const. XIV Amend. Under "Equal Protection Of The Law", "Due Process" And Under The Wn. Const. Art. I, § 3 "Due Process""

Mr. Talley should be awarded his 55-days "Early Release Time" because of the following reasons:

1.1 Because the Department of Corrections inadvertently miscalculated my "Earned Release Time Credits" by 55-days.

1.2 Because the Department of Corrections inadvertently miscalculated my "Actual Time" served during my pre-sentence confinement in Skamania County Jail by 2-days.

1.3 Because the Department inadvertently miscalculated my "Earned Release Time" during my presentence confinement in Skamania County Jail by 58-days.

1.4 Because Department of Corrections inadvertently miscalculated, or deliberately denied my "Earned Early Release Time" during my presentence confinement in Skamania County Jail in lieu off violating my equal protection rights.

Ground II

"Violation Of The U.S. Const. XIV Amend. Under "Due Process", And Wn. Const. Art. I, § 3 (Same)"

2.1 Because procedures for inmate "Earned Release Credits" lacks clarity for purposes of RCW 72.09.


C. Request for Relief

Because Mr. Talley has not had one single

infraction throughout his entire incarceration,
and because Mr. Talley has never refused an
available program, and because the law grants
"Early Release Credits" for these reasons, this
Court should grant Mr. Talley, his petition and
award the 55-days "Earned Release Time".

Dated this 20th of August, 2008.

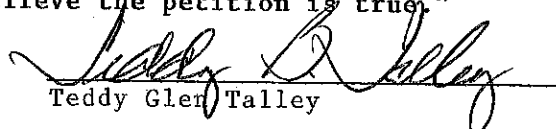
Respectfully submitted by,


Teddy Glen Talley #304090 #107
McNeil Island Corrections Center
P.O. BOX 88-1000
Steilacoom, WA 98388-1000

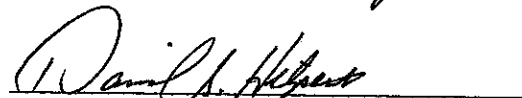
D. Oath of Petitioner

THE STATE OF WASHINGTON)
IN THE COUNTY OF PIERCE) SS:

After being duly sworn, on oath, I depose and say:
"That I am the Petitioner, that I have read the petition,
know its contents, and believe the petition is true."


Teddy Glen Talley

SUBSCRIBED AND SWORN to before me this 20th day of August 2008.
August 2008.


Notary Public in and for the
State of Washington, residing
at: Steilacoom WA Pierce Co. My
Commission expires: _____.

Personal Restraint Petition- 5 of 5

Records and Identification Office
Authorized Officer pursuant to RCW 64.08.090

**THE SUPREME COURT
OF THE STATE OF WASHINGTON**

In re Personal Restraint of

NO: _____

Teddy Glenn Talley

**MOTION AND AFFIDAVIT FOR
AN ORDER TO PROCEED
INFORMA PAUPERIS**

COMES NOW, The Petitioner, above named and moves this Honorable Court for an Order to Proceed Informa Pauperis, for the purpose of income and expenses in filing his Personal Restraint Petition.

Dated: 08/20/08

Teddy Glenn Talley
(Signature)

TEDDY GLENN TALLEY
(Print Name)

McNeil Island Corrections Center
P.O. BOX 88-1000
Steilacoom, WA 98388-1000

**THE STATE OF WASHINGTON)
COUNTY OF PIERCE)**

ss.

**AFFIDAVIT OF INCOME
AND EXPENSES**

1. Affiant's full Name:

TEDDY GLENN TALLEY

Affiant's Address:

D-780-2
MCNEIL ISLAND CORRECTIONS CENTER
PO BOX 881000
STEILACOOM, WA 98388-1000

Affiant's Telephone: NONE

Affiant's Employer: NONE

Type of Work: NONE

Hours Worked: NONE

Gross Pay Per Month (Before taxes): NONE

Net Pay Per Month (After Taxes): NONE

OTHER BENEFITS NOW RECEIVING:

Unemployment	\$ <u>N/A</u>	per	<u> </u>
Workman's Comp.	\$ <u>N/A</u>	per	<u> </u>
Welfare/SSI	\$ <u>N/A</u>	per	<u> </u>
Social Security	\$ <u>N/A</u>	per	<u> </u>
Veteran's Administration	\$ <u>N/A</u>	per	<u> </u>
Retirement/Pension	\$ <u>N/A</u>	per	<u> </u>
Annuities/Trust	\$ <u>N/A</u>	per	<u> </u>

OTHER INCOME: DOC. Gratuity AVE 143.57/MONTH

2. Spouse's Full Name: NONE

Spouse's Address: N/A

Spouse's Telephone: N/A

Spouse's Employer: N/A

Type of Work: N/A

Hours Worked: N/A

Gross Pay Per Month (Before Taxes) N/A

Net Pay After (After Taxes) N/A

OTHER BENEFITS NOW RECEIVING:

Unemployment	\$ <u>N/A</u>	per _____
Workman's Comp.	\$ <u>N/A</u>	per _____
Welfare/SSI	\$ <u>N/A</u>	per _____
Social Security	\$ <u>N/A</u>	per _____
Veteran's Administration	\$ <u>N/A</u>	per _____
Retirement/Pension	\$ <u>N/A</u>	per _____
Annuities/Trust	\$ <u>N/A</u>	per _____

OTHER INCOME:

CHILDREN OR OTHER DEPENDANT'S:N/A

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

Name: _____

Address: _____

CURRENT ASSETS OF THE AFFIANT:

<u>BANK/CREDIT UNION</u>	<u>AMOUNT</u>	<u>TYPE OF ACCOUNT</u>
--------------------------	---------------	------------------------

N/A

ANY OTHER MONIES TO BE RECEIVED WITHIN NEXT NINETY DAYS

N/A

GENERAL DESCRIPTION OF REAL ESTATE, VEHICLES, OR OTHER PROPERTY OWNED OR IN WHICH THE AFFIANT HAS AN INTEREST:

N/A

CURRENT DEBTS OF AFFIANT:

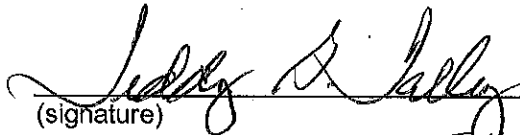
CREDITOR	REASON FOR DEBT	OWED	MONTHLY
Crime Victims Compensation		unlimited	
Cost of Incarceration		unlimited	
Legal Financial Obligations		unlimited	

MONTHLY HOUSEHOLD EXPENSIS:

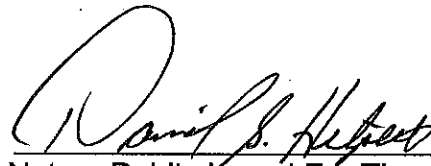
Rent/Home Payment	\$ N/A	Per	
Electricity	\$ N/A	Per	
Water/Sewage/Garbage	\$ N/A	Per	
Telephone	\$ N/A	Per	
Heating	\$ N/A	Per	
Food	\$ N/A	Per	
Clothing	\$ N/A	Per	
Medical/Dental	\$ Variable	Per	Variable
Auto/Gas/Oil/Auto Ins.	\$ N/A	Per	

THE STATE OF WASHINGTON)
) ss.
COUNTY OF PIERCE)

After being duly sworn on oath, I depose and say: That I am the petitioner, that I have read the petition, know its contents, and I believe the petition is true.


(signature)
TEDDY GLENN TAMEY

SUBSCRIBED AND SWORN to before me this 20th day of
August, 2008.


Notary Public In and For The
State of Washington
Residing At: Steilacoom WA Pierce Co.
My Commission Expires: _____

Records and Identification Office
Authorized Officer pursuant to RCW 64.08.090

**THE SUPREME COURT
ON THE STATE OF WASHINGTON**

IN RE PERSONAL RESTRAINT of) NO: _____
Teddy Glenn Talley)
) **ORDER AUTHORIZING TO**
) **PROCEED INFORMA**
) **PAUPERIS**

The Petitioner, above named, having presented to the Court a sufficient affidavit and declaration to Proceed Informa Pauperis and the Court being of the opinion that the Order asked for should be issued, now therefore, it is:

ORDERED, ADJUDGED, AND DECREED, that the Petitioner is hereby authorized to proceed with this action Informa Pauperis, and the Clerk of this Court is ordered and directed to file papers and pleadings as requested by the Petitioner without payment of any fee, cost or charge whatsoever. In approving this Order, the Court reserves the right to review this authorization and require the payment of the fee if justified at the time of final hearing.

[] It is further **ORDERED, ADJUDGED AND DECREED** that the Court Clerk be directed to release the Documents/Transcripts to the Petitioner for commencement of this action Informa Pauperis.

Dated: _____

Judge

08/13/2008 13:52

Department of Corrections

Page 1 Of 4

NJNAGLE

MCNEIL ISLAND CORRECTION CENTER

OTRTASTA

T R U S T A C C O U N T S T A T E M E N T

6.03.1.0.1.2

DOC: 0000304090 Name: TALLEY, TEDDY G

DOB: 05/29/1951

LOCATION: I01-251-D1072

ACCOUNT BALANCES Total: 726.80 CURRENT: 724.99 HOLD: 1.81

02/01/2008 08/13/2008

SUB ACCOUNT	START BALANCE	END BALANCE
SPENDABLE BAL	498.92	326.96
SAVINGS BALANCE	218.78	294.93
WORK RELEASE SAVINGS	0.00	0.00
EDUCATION ACCOUNT	0.00	100.00
MEDICAL ACCOUNT	0.00	0.00
POSTAGE ACCOUNT	6.49	3.10
COMM SERV REV FUND ACCOUNT	0.00	0.00

CERTIFIED COPY
 8/13/08 1077

DEBTS AND OBLIGATIONS

TYPE	PAYABLE	INFO NUMBER	AMOUNT OWING	AMOUNT PAID	WRITE OFF AMT.
CVCS	CRIME VICTIM COMPENSATION/07112000	03302007	UNLIMITED	99.15	0.00
COIS	COST OF INCARCERATION /07112000	03302007	UNLIMITED	396.62	0.00
COI	COST OF INCARCERATION	03302007	UNLIMITED	99.90	0.00
CVC	CRIME VICTIM COMPENSATION	03302007	UNLIMITED	53.02	0.00
LFO	LEGAL FINANCIAL OBLIGATIONS	20070406	UNLIMITED	193.20	0.00
POSD	POSTAGE DEBT	09252007	0.00	0.82	0.00

TRANSACTION DESCRIPTIONS --

SPENDABLE BAL SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
02/07/2008	CRS	CRS SAL ORD #4417300STOR	(31.06)	467.86
02/09/2008	TV	I05 - TV CABLE FEE	(0.50)	467.36
02/12/2008	CSR	CSR SAL ORD #4417300	31.06	498.42
02/14/2008	CRS	CRS SAL ORD #4428106STOR	(43.01)	455.41
02/17/2008	P2	CLASS 2 GRATUITY-furniture	62.47	517.88
02/17/2008	DED	Deductions-LFO-20070406 D D	(12.49)	505.39
02/17/2008	DED	Deductions-CVC-03302007 D D	(3.12)	502.27
02/17/2008	DED	Deductions-SAV-09202007 D D	(6.25)	496.02
02/17/2008	DED	Deductions-COI-03302007 D D	(9.37)	486.65
02/17/2008	IP2	INCENTIVE CLASS 2 GRATUITY	75.00	561.65
02/17/2008	DED	Deductions-LFO-20070406 D D	(15.00)	546.65
02/17/2008	DED	Deductions-CVC-03302007 D D	(3.75)	542.90
02/17/2008	DED	Deductions-SAV-09202007 D D	(7.50)	535.40
02/22/2008	DEN	I05 - DENTAL COPAY	(3.00)	532.40
02/27/2008	MED	I05 - MEDICAL COPAY	(3.00)	529.40
03/03/2008	HOA	HOLD FOR PDR COPIES AND POSTG FOR MCC	(1.61)	527.79
03/05/2008	CRS	CRS SAL ORD #4459802STOR	(37.76)	490.03
03/08/2008	TV	I05 - TV CABLE FEE	(0.50)	489.53
03/10/2008	POS	POSTAGE	(1.14)	488.39
03/12/2008	CRS	CRS SAL ORD #4470881STOR	(47.23)	441.16
03/12/2008	WTS	REC FEE - WEIGHTS	(5.00)	436.16
03/16/2008	P2	CLASS 2 GRATUITY	66.88	503.04

NJNAGLE

MCNEIL ISLAND CORRECTION CENTER

OTRTASTA

T R U S T A C C O U N T S T A T E M E N T

6.03.1.0.1.2

DOC: 0000304090 Name: TALLEY, TEDDY G

DOB: 05/29/1951

LOCATION: I01-251-D1072

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
03/16/2008	DED	Deductions-LFO-20070406 D D	(13.38)	489.66
03/16/2008	DED	Deductions-CVC-03302007 D D	(3.34)	486.32
03/16/2008	DED	Deductions-SAV-09202007 D D	(6.69)	479.63
03/16/2008	DED	Deductions-COI-03302007 D D	(10.03)	469.60
03/16/2008	IP2	INCENTIVE CLASS 2 GRATUITY	75.00	544.60
03/16/2008	DED	Deductions-LFO-20070406 D D	(15.00)	529.60
03/16/2008	DED	Deductions-CVC-03302007 D D	(3.75)	525.85
03/16/2008	DED	Deductions-SAV-09202007 D D	(7.50)	518.35
03/19/2008	CRS	CRS SAL ORD #4482851STOR	(34.69)	483.66
03/19/2008	MED	I05 - MEDICAL COPAY	(3.00)	480.66
03/19/2008	DEN	I05 - DENTAL COPAY	(3.00)	477.66
03/20/2008	COP	COPIES-legal	(0.30)	477.36
03/24/2008	POS	POSTAGE	(0.17)	477.19
03/26/2008	CRS	CRS SAL ORD #4495427STOR	(24.76)	452.43
04/04/2008	CRS	CRS SAL ORD #4509878STOR	(48.13)	404.30
04/11/2008	CRS	CRS SAL ORD #4520551STOR	(32.63)	371.67
04/12/2008	TV	I05 - TV CABLE FEE	(0.50)	371.17
04/16/2008	P2	CLASS 2 GRATUITY	96.89	468.06
04/16/2008	DED	Deductions-LFO-20070406 D D	(19.38)	448.68
04/16/2008	DED	Deductions-CVC-03302007 D D	(4.84)	443.84
04/16/2008	DED	Deductions-SAV-09202007 D D	(9.69)	434.15
04/16/2008	DED	Deductions-COI-03302007 D D	(14.53)	419.62
04/16/2008	IP2	INCENTIVE CLASS 2 GRATUITY	50.00	469.62
04/16/2008	DED	Deductions-LFO-20070406 D D	(10.00)	459.62
04/16/2008	DED	Deductions-CVC-03302007 D D	(2.50)	457.12
04/16/2008	DED	Deductions-SAV-09202007 D D	(5.00)	452.12
04/18/2008	CRS	CRS SAL ORD #4533157STOR	(45.15)	406.97
04/21/2008	HOA	HOLD FOR RECORDS	(0.20)	406.77
04/22/2008	AAC	ALCOHOL ANONYMOUS CLUB	(5.00)	401.77
04/22/2008	COP	COPIES - LEGAL	(1.00)	400.77
04/22/2008	MED	I05 - MEDICAL COPAY	(3.00)	397.77
04/24/2008	COP	COPIES	(0.20)	397.57
04/25/2008	CRS	CRS SAL ORD #4544662STOR	(67.94)	329.63
05/01/2008	CSR	CSR SAL ORD #4544662	43.20	372.83
05/06/2008	CRS	CRS SAL ORD #4559615STOR	(34.54)	338.29
05/10/2008	TV	I05 - TV CABLE FEE	(0.50)	337.79
05/13/2008	CRS	CRS SAL ORD #4570520STOR	(31.31)	306.48
05/15/2008	POS	POSTAGE	(0.18)	306.30
05/15/2008	DEN	I05 - DENTAL COPAY	(3.00)	303.30
05/16/2008	P2	CLASS 2 GRATUITY	81.88	385.18
05/16/2008	DED	Deductions-LFO-20070406 D D	(16.38)	368.80
05/16/2008	DED	Deductions-CVC-03302007 D D	(4.09)	364.71
05/16/2008	DED	Deductions-SAV-09202007 D D	(8.19)	356.52
05/16/2008	DED	Deductions-COI-03302007 D D	(12.28)	344.24
05/27/2008	CRS	CRS SAL ORD #4593159STOR	(10.97)	333.27
06/05/2008	CRS	CRS SAL ORD #4608650STOR	(17.69)	315.58
06/09/2008	POS	POSTAGE	(0.18)	315.40
06/09/2008	POS	POSTAGE	(0.59)	314.81

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08/13/2008 13:52

Department of Corrections

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NJNAGLE

MCNEIL ISLAND CORRECTION CENTER

OTRTASTA

T R U S T A C C O U N T S T A T E M E N T

6.03.1.0.1.2

DOC: 0000304090 Name: TALLEY, TEDDY G

DOB: 05/29/1951

LOCATION: I01-251-D1072

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
06/09/2008	POS	POSTAGE	(0.42)	314.39
06/12/2008	CRS	CRS SAL ORD #4619484STOR	(11.55)	302.84
06/14/2008	TV	I05 - TV CABLE FEE	(0.50)	302.34
06/16/2008	P2	CLASS 2 GRATUITY	87.52	389.86
06/16/2008	DED	Deductions-LFO-20070406 D D	(17.50)	372.36
06/16/2008	DED	Deductions-CVC-03302007 D D	(4.38)	367.98
06/16/2008	DED	Deductions-SAV-09202007 D D	(8.75)	359.23
06/16/2008	DED	Deductions-COI-03302007 D D	(13.13)	346.10
06/16/2008	AAC	ALCOHOL ANONYMOUS CLUB	(5.00)	341.10
06/19/2008	WTS	REC FEE - WEIGHTS-3rd	(5.00)	336.10
06/25/2008	CRS	CRS SAL ORD #4641545STOR	(9.98)	326.12
07/02/2008	LM	LEGAL MAIL	(0.83)	325.29
07/07/2008	CRS	CRS SAL ORD #4656584STOR	(16.58)	308.71
07/12/2008	TV	I05 - TV CABLE FEE	(0.50)	308.21
07/14/2008	CRS	CRS SAL ORD #4668333STOR	(17.66)	290.55
07/15/2008	POS	POSTAGE	(1.14)	289.41
07/16/2008	P2	CLASS 2 GRATUITY - CI FURNITURE	90.78	380.19
07/16/2008	DED	Deductions-LFO-20070406 D D	(18.16)	362.03
07/16/2008	DED	Deductions-CVC-03302007 D D	(4.54)	357.49
07/16/2008	DED	Deductions-SAV-09202007 D D	(9.08)	348.41
07/16/2008	DED	Deductions-COI-03302007 D D	(13.62)	334.79
07/16/2008	IP2	INCENTIVE CLASS 2 GRATUITY	75.00	409.79
07/16/2008	DED	Deductions-LFO-20070406 D D	(15.00)	394.79
07/16/2008	DED	Deductions-CVC-03302007 D D	(3.75)	391.04
07/16/2008	DED	Deductions-SAV-09202007 D D	(7.50)	383.54
07/21/2008	CRS	CRS SAL ORD #4679403STOR	(22.91)	360.63
07/22/2008	POS	POSTAGE	(0.42)	360.21
07/24/2008	CSR	CSR SAL ORD #4679403	4.93	365.14
07/25/2008	CRS	CRS SAL ORD #4688738STOR	(19.46)	345.68
08/06/2008	CRS	CRS SAL ORD #4704825STOR	(4.44)	341.24
08/07/2008	POS	POSTAGE	(0.59)	340.65
08/09/2008	TV	I05 - TV CABLE FEE	(0.50)	340.15
08/11/2008	POS	POSTAGE	(0.17)	339.98
08/13/2008	CRS	CRS SAL ORD #4715774STOR	(13.02)	326.96

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8/13/08 *WGN*

TRANSACTION DESCRIPTIONS --

SAVINGS BALANCE SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
02/17/2008	DED	Deductions-SAV-09202007 D D	6.25	225.03
02/17/2008	DED	Deductions-SAV-09202007 D D	7.50	232.53
03/16/2008	DED	Deductions-SAV-09202007 D D	6.69	239.22
03/16/2008	DED	Deductions-SAV-09202007 D D	7.50	246.72
04/16/2008	DED	Deductions-SAV-09202007 D D	9.69	256.41
04/16/2008	DED	Deductions-SAV-09202007 D D	5.00	261.41
05/16/2008	DED	Deductions-SAV-09202007 D D	8.19	269.60
06/16/2008	DED	Deductions-SAV-09202007 D D	8.75	278.35
07/16/2008	DED	Deductions-SAV-09202007 D D	9.08	287.43
07/16/2008	DED	Deductions-SAV-09202007 D D	7.50	294.93

TRANSACTION DESCRIPTIONS --

WORK RELEASE SUB-ACCOUNT

08/13/2008 13:52

Department of Corrections

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NJNAGLE

MCNEIL ISLAND CORRECTION CENTER

OTRTASTA

T R U S T A C C O U N T S T A T E M E N T

6.03.1.0.1.2

DOC: 0000304090 Name: TALLEY, TEDDY G

DOB: 05/29/1951

LOCATION: I01-251-D1072

SAVINGS

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
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TRANSACTION DESCRIPTIONS --

EDUCATION ACCOUNT SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
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05/15/2008	EDU	EDUCATION ACCOUNT DEPOSITS - Talley	30.00	30.00
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05/29/2008	EDU	EDUCATION ACCOUNT DEPOSITS- Johnson	50.00	80.00
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06/03/2008	EDU	EDUCATION ACCOUNT DEPOSITS-talley	20.00	100.00
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TRANSACTION DESCRIPTIONS --

MEDICAL ACCOUNT SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
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TRANSACTION DESCRIPTIONS --

POSTAGE ACCOUNT SUB-ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
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02/19/2008	SPOST	POSTAGE SUBACCOUNT WITHDRAWAL	(0.41)	6.08
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04/15/2008	SPOST	POSTAGE SUBACCOUNT WITHDRAWAL	(0.41)	5.67
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04/17/2008	SPOST	POSTAGE SUBACCOUNT WITHDRAWAL	(0.41)	5.26
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05/09/2008	SPOST	POSTAGE SUBACCOUNT WITHDRAWAL	(0.41)	4.85
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05/09/2008	SPOST	POSTAGE SUBACCOUNT WITHDRAWAL	(0.41)	4.44
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05/09/2008	SPOST	POSTAGE SUBACCOUNT WITHDRAWAL	(0.41)	4.03
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06/12/2008	SPOST	POSTAGE SUBACCOUNT WITHDRAWAL	(0.17)	3.86
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07/10/2008	SPOST	POSTAGE SUBACCOUNT WITHDRAWAL	(0.42)	3.44
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07/21/2008	SPOST	POSTAGE SUBACCOUNT WITHDRAWAL	(0.17)	3.27
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07/28/2008	SPOST	POSTAGE SUBACCOUNT WITHDRAWAL	(0.17)	3.10
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TRANSACTION DESCRIPTIONS --

COMM SERV REV SUB-ACCOUNT

FUND ACCOUNT

DATE	TYPE	TRANSACTION DESCRIPTION	TRANSACTION AMT	BALANCE
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CERTIFIED COPY

8/13/08 msh

08/13/2008
NJNAGLE

DEPARTMENT OF CORRECTIONS
MCNEIL ISLAND CORRECTION CENTER

Page 1 of 1
OIRPLRAR
6.03.1.0.1.2

PLRA IN FORMA PAUPERIS STATUS REPORT
FOR DEFINED PERIOD : 02/01/2008 TO 07/31/2008

DOC : 0000304090 NAME : TALLEY TEDDY ADMIT DATE :03/30/2007
DOB : 05/29/1951 ADMIT TIME :00:00

AVERAGE MONTHLY RECEIPTS	20% OF RECEIPTS	AVERAGE SPENDABLE BALANCE	20% OF SPENDABLE
143.57	28.71	396.08	79.22

No. _____

SUPREME COURT OF
THE STATE OF WASHINGTON

In re Personal Restraint of Teddy G. Talley

Petitioner's Brief

Teddy G. Talley, #304090 D107
McNeil Island Corrections Center
P.O. BOX 88-1000
Steilacoom, WA 98388-1000

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II Issues Presented For Review

Ground I

"The Petitioner Is Denied Good-Time Credit For Presentence Incarceration For Time Served Prior To Formal Sentencing In Violation Of The Equal Protection Clause Of The Fourteenth Amendment Of The United States Constitution"

1. Did The Department of Corrections Inadvertently Miscalculate Mr. Talley's Good-Time Credits By 55-Days?

2. Did The Department of Corrections Inadvertently Miscalculate Mr. Talley's Actual Time Served During His Presentence Confinement In Skamania County Jail By 2-Days?

3. Did The Department Inadvertently Miscalculate Mr. Talley's Good Time Credits Earned During His Pre-Sentence Confinement In Skamania County Jail By 58-Days?

4. Did The Department of Corrections Inadvertently Miscalculate, Or Deny Mr. Talley's Good Time Credits Earned During His Pre-Sentence Confinement In Skamania County Jail In Lieu Of Violating His Equal Protection Rights?

Ground II

"Procedures For Inmate Earned Early Release Credits Lacks Clarity For Purposes Of RCW 72.09.130 In Violation To The United States Constitution Of The Fourteenth Amendment, And The Wn. Const. Art. 1, Sec. 3 Under Due Process"

Are Procedures For Inmate Earned Early Release Credits Lacking In Clarity For Purposes Of RCW 72.09?

III. Statement of Facts

Mr. Talley entered into a plea agreement after being charged for Murder In The Second Degree. [RCW 9A.32.050(1)(a)]. The standard range for his crime is 123 to 220 months. Mr. Talley was sentenced to 123-months. [J & S, App. A]. Mr. Talley's date of arrest was 10/28/05. After sentencing, Mr. Talley was transferred on 03/29/07 to the Department of Corrections. [App. C, Ex. 1]. The total length in Mr. Talley's actual confinement in the Skamania County Jail from October 28, 2005 on through until March 29, 2007 is 518-days: NOT 516-DAYS.

If Mr. Talley were to serve out his entire sentence without earned release time, he would have served 3,743-days, his release date would be January 29, 2016. [App. D]. Mr. Talley is eligible for "Earned Release Time" pursuant to RCW 9.94A.728(1). [See DOC DIRECTIVE 350.100 II.A.I, App. B]. If Mr. Talley were credited the full benefit of earned release time, at 10%, he would serve 3,369-days, his release date would be January 17, 2015: NOT MARCH 12, 2015. When Mr.

Talley made his appeal to the Skamania County Jail, the reason given for not crediting earned release time while at the jail, was because there were no programs available in his situation.

[App. E]. Talley appealed to the Records Department, and to his Counselor. [App. G and H]. He even appealed to Eldon Vail, Secretary DOC. [App. I]. He appealed the committee decision on review. [App. J]. In all cases, there were either no responses at all, or the responses did not adequately address the issues. Mr. Talley filed Grievances ([DOC 05-166, App. J]) allowing for DOC to remedy the mistake.

Because of the inadvertent mistakes, and because Mr. Talley received no disciplinary infractions throughout his entire incarceration, Mr. Talley seeks relief from his Jailors, Agencies, and Departments in joint working divisions within the Executive Governing Branch in their refusal to award Mr. Talley his 55-days of "Early Release Time".

IV. Argument

In order to obtain relief by way of Personal Restraint Petition, the petitioner must show that he is under restraint within the meaning of RAP 16.4(b), which provides in its relevant part:

"[A] petitioner is under "restraint" if the petitioner has limited freedom because of a court decision in a civil or criminal proceeding, the petitioner is confined, the petitioner is subject to immediate confinement, or the petitioner is under some other disability resulting from judgment or sentence in a criminal case."

See RAP 16.4(b).

There is no dispute that Mr. Talley is under restraint because of a court decision in a criminal proceeding. This may be evidenced by the face of the Judgment and Sentence ("JS") itself. App. A.

Mr. Talley's restraint is unlawful due to the miscalculation of his "Good-Time" credits. Mr. Talley is entitled to relief from restraint arising out of an inadvertent miscalculation, or deliberate denial of the same if he can prove actual and substantial prejudice as a result of constitutional error, or, if he can prove

nonconstitutional error that inherently results in a "complete miscarriage of justice." In re Pers. Restraint of Cook, 114 Wn. 2d 802, 813, 792 P.2d 506 (1990); In re Pers. Restraint of Reismiller, 101 Wn. 2d 291, 293, 678 P.2d 323 (1984). See RAP 16.4(c).

Ground I

"The Department of Corrections Failed To Grant "Good-Time" Credit For Presentence Incarceration For Time Served In County Jail Prior To Formal Sentencing In Violation Of The Equal Protection Clause Of The Fourteenth Amendment Of The United States Constitution"

"The State of Washington operates a determinate sentencing system, under which persons convicted of felonies receive a sentence of a specific number of months based upon a sentencing grid contained in the Sentencing Reform Act of 1981. **Wash. Rev. Code Chapter 9.94A.** When a sentence exceeds twelve months, the prisoner must serve the sentence in a state facility **RCW 9.94A.190(1)**. Prior to sentencing, however, many prisoners who are ultimately confined in a state facility serve time in county jail because they have not posted, or have been denied, bail.

The time actually served in county jail as pretrial detainees is ultimately credited against their sentences." MacFarlane v. Walter, 179 F.3d 1131, 1134-35 (9th Cir. 1999).

"In addition to being reduced for time served, a sentence imposed under the Sentencing Reform Act is reduced when a prisoner is credited with early-release time, either for good conduct or for good performance. In re Mota, 114 Wash. 2d 465, 472, 788 P.2d 538 (1990), the Washington Supreme Court held that equal protection requires that all prisoners be eligible for early-release credit for time served, both in pre-sentence detention and post-sentence incarceration."

[179 F.3d supra at 1135]. "[F]ailure of the Department of Corrections to award earned early release time for time served in county jail prior to formal sentencing violates the equal protection clause of the Fourteenth Amendment of the United States Constitution." 114 Wn. 2d supra at 472.

RCW 9.94A.728(1) provides in its relevant part:

"[t]he sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall

be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be for good behavior and good performance, as determined by the correctional agency having jurisdiction....[I]f an offender is transferred from a county jail to the department, the administrator of a county jail facility shall certify to the department the amount of time spent in custody at the facility and the amount of earned release time.... [I]n the case of an offender convicted of a serious violent offense, or sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence."

Issue I

"The Department of Corrections Inadvertently Miscalculated, Mr. Talley's "Good-Time" Credits"

The laws, rules and regulations as applied here in this case, would allow Mr. Talley to be eligible for 10% credit towards his sentence.

[RCW 9.94A.728(1)]. Policy: DOC 350.100 I

provides: "[T]he Department will award Earned Release Time (ERT), which includes good conduct time and earned time credits, to offenders committed to Department of facilities within the guidelines established by law." **DIRECTIVE:**

DOC 350.100 I.B is applicable in this case, "[F]or offender convicted of a serious violent offense,

or a sex offense that is a Class A Felony committed on or after July 1, 2003, the earned release time may not exceed 10 percent of the sentence." And, "Offenders who participate in approved programs, including work and school, are eligible to earn earned time for each calendar month...." Mr. Talley is eligible under the foregoing statutes, and policies to receive 10 percent, and 1.11 days for each of the months he is incarcerated.

[DIRECTIVE: DOC 350.100 II. A.I]. This policy coincides with RCW 9.94A.728(1). App. B.

Mr. Talley was sentenced to 123 months to the Department of Corrections. [JS, App. A]. His total sentence without any good-time would be 3743 days, his release date would be 01/29/16 ([App. D]) if he served out his maximum sentence. given Mr. Talley's 10 % good-time, he would have served 3369 days, his release date would be 01/17/15. The Department of Corrections errors in its 03/12/15 early release date, a difference of 55 days.

Because Mr. Talley does not have any infractions that would have allowed for a deduction of his good-time, Mr. Talley would be entitled

to the full benefit of good-time credits similar to other prisoners in the same situation. "Equal protection requires that persons similarly situated receive like treatment, Harmon v. McNutt, 91 Wn. 2d 126, 130, 587 P.2d 537 (1978)." Because of the indifference of 55 days loss of good time without any infractions, the Department is in violation to Mr. Talley's right to due process, and equal protection. The remedy is simple: "Allow Mr. Talley the same benefit as other prisoners." Mr. Talley is entitled to the benefit of receiving the fullness of his "Good-Time" credits.

Issue II

"The Department of Corrections Inadvertently Miscalculated, Mr. Talley's Actual Time Served During His Pre-Sentence Confinement In Skamania County Jail"

Prior to Mr. Talley being sentenced to 123 months, he was confined at the Skamania County Jail. His start date was October 28, 2005, and his end date was March 29, 2007. Upon Mr. Talley being transferred from the county jail to the department, the administrator of a count jail facility certified to the department 516-days,

the amount of time spent in custody at the facility. [App. C, Ex. 1]. From the start date to finish, the actual time spent at the facility was 518-days. This is a two-day difference of time actually served.

Because of the indifference of 2-days loss of time actually served in the facility, the Department has made an inadvertent mistake. The remedy is to allow Mr. Talley to receive the two days difference of time actually served.

Second, as to the extent to which petitioner's interest (his physical liberty) was affected, even a single extra day of incarceration is of substantial significance for constitutional purposes.

Issue III

"The Department of Corrections Inadvertently Miscalculated Mr. Talley's "Good-Time" Credits Earned During His Pre-Sentence Confinement In Skamania County Jail"

Prior to Mr. Talley being sentenced to 123 months, he was confined at the Skamania County Jail. "Individuals sentenced to the Skamania County Jail Facility are eligible for a deduction from the length of their sentence in accordance

with RCW 9.92.151. [App. C, Ex. 2-3]. This "good time" shall be awarded on the following basis: 1. A sentence of thirty days or less - one day for each seven days served. 2. A sentence of more than thirty days - five days for each thirty days served." "These inmates must all be classified as medium or low risk inmates and be sentenced before they may be allowed to participate in these programs and begin earning "Good Time". [App. C, Ex. 2-3]. Mr. Talley would not qualify for earned good time credits under the current program procedures established by the Skamania County Jail for pre-sentence incarceration.

In re Mota, 114 Wn. 2d 465, 788 P.2d 538 (1990), the court determined that the Department of Corrections was obligated to credit offenders under its jurisdiction with full good time credit for pre-sentence incarceration in county jail. See Personal Restraint Petition of Williams, 121 Wn. 2d 655, 853 P.2d 444 (1993).

RCW 9.92.151 states: "The sentence of a prisoner confined in county jail facility for a felony, gross misdemeanor conviction may be

reduced by earned early release credits in accordance with procedures that shall be developed and shall be promulgated by the Correctional agency having jurisdiction".

In this present case, upon Mr. Talley being transferred from the county jail to the department, the administrator of the county jail facility certified to the department 516-days, the amount of time spent in custody at the facility. The certificate shows no loss of good time due to misconduct. [App. C, Ex. 1]. "Equal protection requires good-time credit be granted for presentence incarceration" (State v. Jones, 126 Wn. App. 136, 143, 107 P.3d 755 (2005) (citing, Mota, 114 Wn. 2d at 474)) "[w]hich requires that good-time credit be calculated on the basis of the total sentence, rather than the time served." In re Williams, 121 Wash. 2d 655, 659, 853 P.2d 444 (1993). "Department of Corrections failure to compute good-time credit on basis of total sentence or for presentence time in county jail did not further substantial interest of state and violated equal protection." Matter of Mota 54 Wash. App. 252, 773 P.2d 129,

affirmed and remanded 114 Wash. 2d 465, 788 P.2d 538 (1989). Williams, "[T]he jail did not subtract any days for misconduct accordingly." In re Williams 121 Wash. 2d at 659, 853 P.2d 444. In this case, similar to the Williams case, the jail did not subtract any days for misconduct accordingly. The jail did not subtract any days for misconduct, therefore, Mr. Talley is entitled to the full 10% credit, or 58 days ($518 \cdot 10 = 51.8$). The Department of Corrections failure to compute good-time credit on basis of total sentence or for presentence time in county jail did not further substantial interest of state and violated equal protection.

Second: individuals sentenced to the Skamania County Jail Detention and Corrections Center (the county jail at issue in this case) used tiered credit systems to award early release credits at the time the petitions were filed: All general population inmates (like Mr. Talley) were eligible for a deduction from the length of their sentence in accordance with RCW 9.92.151. Evidently, because Mr. Talley was incarcerated for a serious violent crime, the facility

disqualified him for "Good Time", and other good performance programs. Washington Courts have set forth stringent, demanding standards in which a Court has not only the power, but the duty to correct erroneous sentences. To deny Mr. Talley the fullness of his good-time credits, creates an indifference between other inmates, and violates "Equal Protection" of the law. The remedy here, is to correct the inadvertent mistake in the loss of good time.

Issue IV

"The Department of Corrections Inadvertently Miscalculated, Or Denied Mr. Talley's "Good-Time" Credits Earned During His Pre-Sentence Confinement In Skamania County Jail"

Accordingly, the maximum early-release time that can be earned by pre-sentence detainees, such as Mr. Talley, in this county jail is less than 10% that which can be earned by defendants who are able to post bail and begin to serve their time in a state facility after sentencing.

Mr. Talley was unable to afford to post bail because of indigence and was, therefore, detained in the county jail prior to trial and sentencing. Mr. Talley received no good-conduct

credit as a general population county jail prisoner. Neither was eligible to participate in any program that would have allowed him to accumulate good-performance credit in the county jail. Mr. Talley spent 518 pre-sentence days in the Skamania County Jail on a 123-month sentence ([JS App. A]) and received no days of early release time upon transfer to the state facility. Had Mr. Talley posted bail, not been held in custody until after sentencing, and then been committed to the state facility after sentencing, he would have earned 1-day for every 10 days served, or 58 days of early release credit for his good conduct during his initial period of custody. Petitioner challenges the constitutionality of the lesser award of early-release award of early-release credit for the time in which he was detained in jail and seeks credit equal to that which he would have received had he been able to post bail and serve his full sentence in state facility.

In MacFarlane, the Court of Appeals, Reinhardt, Circuit Judge, held that: counties' allowance of lesser good time credits to

detained pretrial in county jails because of financial inability to post bail than would be allowed defendants whose financial resources permitted them to wait to begin serving their time until after commitment, post sentencing, to a state correctional facility violated equal protection, while policies under which pretrial detainees were not eligible for participation in work or other programs through which they could earn good-performance credit did not deny equal protection. Mac Farlane v. Walter, 179 F.3d 1131 (9th Cir. 1999).

"As the Washington State Supreme Court recognized in the Mota case, significant equal protection concerns are raised by the differential treatment that may be accorded the indigent as a result of his inability to post bail before trial. Mota, 114 Wn. 2d at 469-70. See also State v Phelan, 100 Wn. 2d 508, 513-14, 671 P.2d 1212 (1983). (The potential problems posed by good-time credit for presentence incarceration have been generally recognized. See e.g., Schornhorst, Presentence Confinement and the Constitution: The Burial of Dead Time, 23 Hastings

L.J. 1041, 1065 (1972) ("a prisoner held in presentence custody for want of bail suffers further disadvantage unless, after sentence, he is credited with the appropriate good time earned in connection with the presentence custody." Personal Restraint of Williams, 121 Wn. 2d 655, 665, 853 P.2d 444 (1993)).

"Thus, Bearden both articulated guiding principles for analyzing equal protection claims brought by indigent defendants and applied them to the specific issue presented, which, like the issue presented here, concerned increased incarceration because of indigency, Bearden stresses the necessity of weighing alternatives to increased incarceration as a means of punishing the indigent. (Bearden v. Georgia, 461 U.S. 660, 103 S.Ct. 2064, 76 L.Ed. 221 (1983)). Id. at 671-72, 103 S.Ct. 2064. In no uncertain terms, the Court held that to deprive a defendant of his freedom simply because, through no fault of his own, he cannot pay would be contrary to the Fourteenth Amendment's requirement of fundamental fairness. Id. at 672, 103 S.Ct. 2064. "Ninth Circuit case law also confirms

that Bearden is clearly established law on the issue of incarceration based on indigency."

179 F.3d at 1139.

"First, the nature of the individual interest affected here-physical liberty-weighs heavily in the constitutional calculus; the state's interests must be highly significant if they are to out weigh this fundamental interest. The Supreme Court has repeatedly found wealth discrimination unconstitutional when additional incarceration is caused solely by disparities in wealth." See e.g., Williams v. Illinois, 399 U.S. 235, 90 S.Ct. 2018, 26 L.Ed. 2d 586 (1970).

"Second, as to the extent to which petitioner's interest (their physical liberty) was affected, although from our perspective 30, 40, or 50 days more or less on a 5-year or 6-year term of imprisonment may seem negligible, even a single extra day of incarceration is of substantial significance for constitutional purposes. Had Mr. Talley posed bail, served no time in the Skamania County Jail, and been committed directly to the state facility after

sentencing, his incarceration would be shorter by 58 days.

"Finally, there are alternative means to accomplish the legislative purpose that would not involve additional incarceration time for those who are unable to make bail and whose conduct is satisfactory during their stays in county jail. As we have noted, to assuage any concerns regarding discipline, the counties can (and do) deny good-conduct time entirely to detainees who present disciplinary problems, and counties can revoke or restrict the privileges of such individuals. As to local control, a minimal interest, at most, underlies the good-conduct policy. In addition, as the dissenting justices of the Washington Supreme Court pointed out, when a prisoner is transferred post-sentencing from a county jail to a state facility, the county could forward to the Department of Corrections a statement containing the total number of days the prisoner spent in jail and the number of days on which he did not earn good-conduct credit. The Department of Corrections could then itself calculate the total amount

of credit for good conduct that the prisoner should receive under the applicable state policies and credit that amount of time against the time the time to be served." In re Fogle, 128 Wash. 2d at 73, 904 P.2d 722. 179 F.3d at 1142.

Application of the legal rules prescribed by Bearden clearly requires the conclusion that the good conduct policies challenged by Mr. Talley violates equal protection. The failure to apply Bearden, and its resultant decision that the county jails' good - conduct policies did not violate equal protection, was "contrary to clearly established...Federal law" within the meaning of 28 U.S.C. Sec. 2254(d)." 179 F.3d at 1142.

"Liberty interest comes under the due process clause, while classification or differing treatment based on status implicates the equal protection clause. Where liberty interest and such classification converge, as in the present situation, most of the decisions in this area rest on an equal protection framework." Bearden v. Georgia, 462 U.S. 660, 665, 76 L.Ed. 2d 221, 103 S.Ct. 2064, 2068 (1983)." Id. at 474 n.1.

"[t]he equal protection clause of the fourteenth

amendment to the United States Constitution requires that indigent prisoners who cannot make bail prior to trial and sentencing are entitled to receive good-time credit for the period spent in county jail awaiting sentencing." In re Mota, 114 Wn. 2d 465, 467, 788 P.2d 538 (1990). "Equal protection requires that persons similarly situated receive like treatment." Harmon v. McNutt, 91 Wn. 2d 126, 130, 587 P.2d 537 (1978). Id. at 473.

"[c]onsistent with the language, structure, and purpose of the statute, is to prohibit the Department from accepting certifications that are based on apparent or manifest errors of law." "[T]he certification does not...have legal force if it is based upon an apparent or manifest error of law." Pers. Restraint of Williams 121 Wn. 2d 655, 664, 853 P.2d 444 (1993). "This reading of the statute is implicit in the language of the statute itself. Since the statute prescribes certain standards for the award or denial of good-time, a certification in violation of those standards would be presumptively invalid." Id. at 664.

Mr. Talley is entitled to his 58-days earned early release credits. The jail did not subtract any days for misconduct, therefore, Mr. Talley is entitled to the full 10% credit, or 58-days (518 10 =57.55). The Department of Corrections failure to compute good-time credit on basis of total sentence or for presentence time in county jail did not further substantial interest of state and violated equal protection. Counties' allowance of lesser good time credits to defendants detained pretrial in county jails because of financial inability to post bail than would be allowed defendants whose financial resources permitted them to wait before serving their time, until after commitment, post sentencing, to a state correctional facility violated equal protection, while policies under which pretrial detainees were not eligible for participation in work or other programs through which they could earn good-performance credit did not deny equal protection. MacFarlane v. Walter, 179 F.3d 1131 (9th Cir. 1999).

Because Mr. Talley's financial inability to post bail, Mr. Talley seeks the full benefit

of receiving his "Early Release Credits" similar to other prisoners, whose financial resources permitted them to post bail, and were permitted to wait before having to serve their sentence, whereby, they were able to receive the full benefit of their "Early Release Time."

ground II

"Procedures For Inmate Earned Early Release Credits Lacks Clarity For Purposes Of RCW 72.09.130 In Violation To The United States Constitution Of The Fourteenth Amendment, Under "Due Process", And The Wn. Const. Art. 1, Sec. 3, Also Under "Due Process"

Wn. Const. Art. 1, Sec. 3 provides:

"[N]o person shall be deprived of life, or property, without due process of law."

U.S. Const. Amend. XIV, Sec. 1 provides:

"[N]o state...deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the law."

Mr. Talley is eligible for "Earned Release Time, defined in the Washington Administrative Code (WAC) 137-28-160 "combined earned time and good conduct time credit an offender is eligible to earn off the minimum term established by the

indeterminate sentence review board or the sentencing court." "Good Conduct Time" is defined: "[t]hat portion of an inmate's potential reduction...which may be lost by receiving serious infractions" and "Earned Time" is "[t]hat portion of time an offender is eligible to earn for program participation...." WAC 137-28-160.

MacFarlane, defines Early Release Time as "Early Release Credit": "[I]n the various statutes and policies, different terms are used to describe these two distinct categories which make up "early release" credit. "Good time" or "good behavior" or "good conduct" describes credit for an absence of misconduct. "Good performance" or "earned time" describes credit awarded for affirmative participation in various work or treatment programs. For purposes of clarity, we shall use the terms "good conduct" and "good performance" in this opinion." (emphasis added). MacFarlane v. Walter, 179 F.3d 1131, 1135, n.1 (9th Cir. 1999).

Mr. Talley claims that the Department of Corrections failed to award him 55-days earned earned release time. The Department claims that

it is not obligated to give Mr. Talley his earned early release time, to the contrary. The Department cites RCW 9.94A.728, the given reason for not awarding Mr. Talley his 55-days earned release time: "[f]acilities may reduce an inmate's sentence in accordance with procedures they have developed." Sheriff Memo, App. E.

Mr. Talley ask that this court might consider those procedures in which the Department of Corrections has developed in order for an inmate to earn his earned early release credits. The Washington Appellate Court conceded in its own opinion, stating that "[t]he design of the DOC's early release calculation sheets is woefully confusing." In re Pers. Restraint of Roberts, 2004 Wash. App. LEXIS 1253.

RCW 72.09.130 provides:

"(1) the department shall adopt, by rule, a system that clearly links an inmate's behavior and participation in available education and work programs with the receipt or denial of earned early release days and other privileges. The system shall include increases or decreases in the degree of liberty granted the inmate within the programs operated by the department, access to or withholding of privileges available within correctional institutions, and recommended increases or decreases in the number of earned early release days that an inmate can earn or good conduct and good

performance."

"(2) Earned early release days shall be recommended by the department as a reward for accomplishment. The system shall be fair, measurable, and understandable to offenders, staff, and the public. At least once in each twelve-month period, the department shall inform the offender in writing as to his or her conduct and performance. An inmate is not eligible to receive earned early release days during any time in which he or she refuses to participate in an available education or work program into which he or she has been placed under."

"(3) The department shall provide each offender in its custody a written description of the system created under this section."

The Department of Corrections had deprived Mr. Talley to the full benefit of procedures that are outlined under RCW 72.09.130. The Department of Corrections has not created a system that is consistent with that which is demanded under RCW 72.09.130(2) that is "fair, measurable, and understandable to offenders, staff, and the public." The Department has not "provided each offender in its custody a written description of the system created under this section," or at least, that can be easily understandable to an offender, to staff, or the public. RCW 72.09.130(3).

Department will award Earned Release Time (ERT), which includes good conduct time and earned time credits, to offenders committed to Department of facilities within the guidelines established by law."

DIRECTIVE: DOC 350.100.I.B Good Conduct Time:
Relevant to this case provides: "[F]or offenders convicted of a serious violent offense, or a sex offense that is a Class A Felony committed on or after July 1, 2003, the earned release time may not exceed 10 percent of the sentence."

DIRECTIVE: DOC 350.100.II.A Earned Time:
Provides: "Offenders who participate in approved programs, including work and school, are eligible to earn earned time for each calendar month...."
Relevant to this case provides: "1. ET eligible under 10 percent rule 1.11 days." In an offenders view of this Directive, could easily be interpreted an offender receiving in lieu of the 10 percent good-time, an additional 1.11 days for good-performance. Nevertheless, the current policies are misleading to the offender, staff, and to the public.

Secondly, legislative intent was to create

a system whereby, an inmate might be given an incentive to behave while serving out his, or her sentence, and to further be awarded for affirmative participation in various work or treatment programs. In the words of RCW 9.94A.728 provides: "[t]he sentence of an offender...may be reduced by earned release time in accordance with procedures that shall be developed." In other words, an offenders sentence may be reduced, must be dependent on an offenders willingness to behave, and be a participant in available programs.

The procedures are further defined under RCW 72.09.130(2): "[E]arned early release days shall be recommended by the department as a reward for accomplishment." The only time "an inmate is not eligible to receive earned early release days [is] during any time in which he or she refuses to participate in an available education or work program into which he or she has been placed under." (emphasis added). In this case, Mr. Talley has never refused an available education or work program into which he had been placed under. And, Mr. Talley certainly, should not be penalized for the departments failure

to develop programs in his situation, being no fault of his own.

RCW 72.09.130(3) states: "[T]he department shall provide each offender in its custody a written description of the systems created under this section." As evidenced, the laws, and rules governing early release credits are found in being ambiguous, and so confusing, it allows staff within the department, to either deliberately, or inadvertently misapply applications of the law, contrary to legislative intent, which were created for the benefit of inmates, giving them an incentive to earn his or her earned release time by good-behavior, and being a participant in an available education or work program into which he or she has been placed under. The Department should further its clarification by a written description of the created system, and its calculations in order to satisfy legislative intent, making it clearer to the offender, staff and to the public.

In this case, Mr. Talley has sought through due diligence attempting to understand the way in which procedures, and calculations are applied.

In conclusion to this exploration, Mr. Talley is met with nonsense. There are no instructions, legends, or explanation sheets accompanying it, and its calculations are not transparent. Even, the Washington Appellate Court agreed on this, giving in its opinion regarding the issue: "[I]t is difficult to conceive how the early release calculation sheet can possibly communicate any incentive to an inmate to earn credits. ("The ability to earn release credit creates an incentive for inmates to follow internal prison rules." State v. Brown, 142 Wn. 2d 57, 60, 11 P.3d 818 (citing former RCW 9.94A.150(1) (currently, RCW 9.94A.728))). From an inmate's perspective, its lack of clarity well may seem unfair and at odds with RCW 72.09.130." 2004 Wash. App. LEXIS 1253. App. H.

If the Department of Corrections were to follow the mandatory language of RCW 72.09.130, Mr. Talley would have been provided with the full benefit of those procedures set out by legislature. The Department would have created a system that is consistent with RCW 72.09.130(2) that is "fair, measurable, and understandable

not only to both offenders, and staff, but to the public as well." Mr. Talley would have been provided with a written description of the system created under this section, and lastly, Mr. Talley, a high-school graduate would not have trouble in totaling his earned credits.

Wn. Const. Art. II, Sec. 19 provides: "No bill shall embrace more than one subject, and that shall be expressed in the title." The Const. Art. II, Sec. 19 contains two requirements: (1) that a bill embrace no more than one subject and (2) that the subject of a bill be expressed in its title. The first requirement is intended to prevent logrolling, or the practice of combining two unrelated measures in order to obtain passage of both. That is exactly what has happened here in this case contending with "Good-Time", "Earned-Time", and the "Maximum Aggregate Earned Release-Time."

A legislative act is not unconstitutional in its entirety unless invalid provisions are unserverable and it cannot be reasonably be believed that the legislative body would have passed one without the other, or unless

elimination of the invalid part would render the remaining part useless to accomplish the legislative purposes. Gerberding v Munro, 134 Wn. 2d 188, 197, 949 P.2d 1366 (1988); State v. Crediford, 130 Wn. 2d 747, 760, 927 P.2d 1129 (1996).

The situation here has allowed inmates to believe that they would receive 10% "Good-Time" and, an addition of 1.11 days for "Earned-Time" for each month in which they are incarcerated. DOC 350.100. Not only, but, the language has allowed the Department to deviate from legislative intent, depriving inmates from the full benefit in receiving their "Earned Early Release Credits." RCW 9.94A.728. Mr. Talley should reap the full benefit of not only the 10% "Good-Time" for the total time served, in addition to the full benefit of 1.11 days for each month for which he is incarcerated.

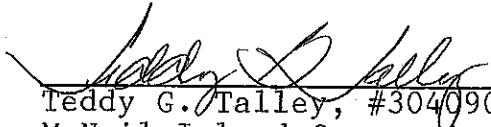
Conclusion

There are yet many questions that go unanswered. It is during the course of an inmates experience, when inquiring for answers concerning

good conduct, and good performance, an inmate is often given deterrent responses, or no response at all, leaving him or her with a feeling of discouragement. Legislatures intent was to create a system quite contrary to the system that is now being applied. Because counselors are not always literate to the language developed by the department, for example, when calculation an inmates good time, in comparison to good performance time. The description given under the current system, are not comprehensible to the average inmate, they lack legends, and there are no explanation sheets attached, and the calculations are not transparent. There is no explanation of bad conduct in relation to the statue of limitations in lieu of good-conduct. Many questions continue to go unanswered. For these reasons, and others presented throughout this brief, this Court should grant Mr. Talley's petition.

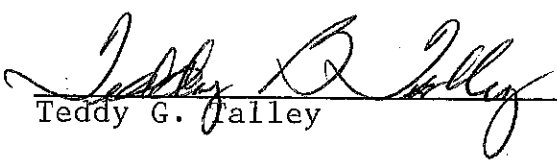
I declare unde penalty of perjury under the laws of the State of Washington that the forgoing is true and correct.

Respectfully submitted on this 20th day of August, 2008.

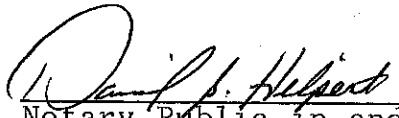

Teddy G. Talley, #304090 D107
McNeil Island Corrections Center
P.O. BOX 88-1000
Steilacoom, WA 98388-1000

THE STATE OF WASHINGTON }
 } SS:
IN THE COUNTY OF PIERCE }

After being duly sworn, on oath, I depose and say: "That I am the Petitioner, that I have read the petition, know its contents, and believe the petition is true."


Teddy G. Talley

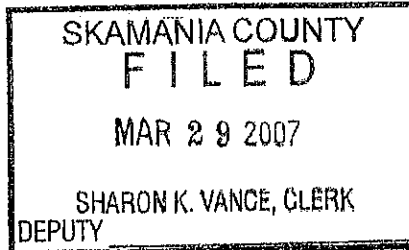
SUBSCRIBED AND SWORN to before me this 20th day of August 2008.


Notary Public in and for the
State of Washington, residing
at: Steilacoom WA Pierce Co . My
Commission Expires: _____.

Records and Identification Office
Authorized Officer pursuant to RCW 64.08.090

APPENDIX

A



IN THE SUPERIOR COURT OF THE
STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAMANIA

STATE OF WASHINGTON,

Plaintiff,

vs.

TEDDY GLENN TALLEY,

SID:

If no SID, use DOB: 5-29-51

Defendant.

No. 05-1-00111-7

Felony Judgment and Sentence (FJS)

☒ Prison

☐ RCW 9.94A.712 Prison Confinement

☐ Jail One Year or Less

☐ First-Time Offender

☐ Special Sexual Offender

Sentencing Alternative

☐ Special Drug Offender

Sentencing Alternative

☐ Clerk's Action Required, para
4.5 (SDOSA), 4.15.2, 5.3, 5.6 and
5.8

I. Hearing

1.1 A sentencing hearing was held and the defendant, the defendant's lawyer and the (~~deputy~~) prosecuting attorney were present.

II. Findings

There being no reason why judgment should not be pronounced, the court **Finds:**

2.1 **Current Offense(s):** The defendant was found guilty on 3-7-07 by ☒ plea ☐ jury-verdict ☐ bench trial of:

COUNT	CRIME	RCW	DATE OF CRIME
I	MURDER IN THE SECOND DEGREE	RCW 9A.32.050(1)(a)	10-27-05

(If the crime is a drug offense, include the type of drug in the second column.)

as charged in the Third Amended Information.

☐ Additional current offenses are attached in Appendix 2.1.

☐ The court finds that the defendant is subject to sentencing under RCW 9.94A.712.

☐ A special verdict/finding that the offense was predatory was returned on Count(s) _____. RCW 9.94A._____.

☐ A special verdict/finding that the victim was under 15 years of age at the time of the offense was returned on Count(s) _____. RCW 9.94A._____.

- [] A special verdict/finding that the victim was developmentally disabled, mentally disordered, or a frail elder or vulnerable adult at the time of the offense was returned on Count(s) _____ RCW 9.94A.____, 9A.44.010.
- [] A special verdict/finding of sexual motivation was returned on Count(s) _____ RCW 9.94A.835.
- [] This case involves kidnapping in the first degree, kidnapping in the second degree, or unlawful imprisonment as defined in chapter 9A.40 RCW, where the victim is a minor and the offender is not the minor's parent. RCW 9A.44.130.
- [] A special verdict/finding for use of firearm was returned on Count(s) _____ RCW 9.94A.602, 9.94A.533.
- [] A special verdict/finding for use of deadly weapon other than a firearm was returned on Count(s) _____ RCW 9.94A.602, 9.94A.533.
- [] A special verdict/finding for Violation of the Uniform Controlled Substances Act (VUCSA) was returned on Count(s) _____, RCW 69.50.401 and RCW 69.50.435, taking place in a school, school bus, within 1000 feet of the perimeter of a school grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.
- [] A special verdict/finding that the defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, when a juvenile was present in or upon the premises of manufacture was returned on Count(s) _____ RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- [] The defendant was convicted of vehicular homicide which was proximately caused by a person driving a vehicle while under the influence of intoxicating liquor or drug or by the operation of a vehicle in a reckless manner and is therefore a violent offense. RCW 9.94A.030.
- [] The court finds that the offender has a chemical dependency that has contributed to the offense(s). RCW 9.94A.607.
- [] The crime charged in Count(s) _____ involve(s) domestic violence.
- [] Current offenses encompassing the same criminal conduct and counting as one crime in determining the offender score are (RCW 9.94A.589):
- [] Other current convictions listed under different cause numbers used in calculating the offender score are (list offense and cause number):

2.2 Criminal History (RCW 9.94A.525):

CRIME	DATE OF SENTENCE	SENTENCING COURT (County & State)	DATE OF CRIME	A or J Adult or Juv	TYPE OF CRIME
NO KNOWN HISTORY					

- [] Additional criminal history is attached in Appendix 2.2.
- [] The defendant committed a current offense while on community placement (adds one point to score). RCW 9.94A.525.
- [] The court finds that the following prior convictions are one offense

- for purposes of determining the offender score (RCW 9.94A.525):
- ☐ The following prior convictions are not counted as points but as enhancements pursuant to RCW 46.61.520:

2.3 Sentencing Data:

COUNT	OFFENDER SCORE	SERIOUSNESS LEVEL	STANDARD RANGE (not including enhancements)	PLUS ENHANCEMENT (F) FIREARM (D) DEADLY WEAPON (V) VUCSA in a protected zone	TOTAL STANDARD RANGE	MAXIMUM TERM
I	0	XIV	123-220 MONTHS	N/A	123-220	LIFE \$50,000

* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8).

- ☐ Additional current offense sentencing data is attached in Appendix 2.3.

2.4 ☐ Exceptional Sentence. Substantial and compelling reasons exist which justify an exceptional sentence:

☐ within ☐ below the standard range for Count(s) _____

☐ above the standard range for Count(s) _____

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury by special interrogatory.

Findings of fact and conclusions of law are attached in Appendix 2.4.

- ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

2.5 Ability to Pay Legal Financial Obligations. The court has considered the total amount owing, the defendant's past, present and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds that the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

- ☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753):

2.6 For violent offenses, most serious offenses, or armed offenders

recommended sentencing agreements or plea agreements are ☐ attached
☐ as follows:_____

III. Judgment

3.1 The defendant is Guilty of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☐ The court Dismisses Counts _____ ☐ The defendant is found Not Guilty of Counts _____.

IV. Sentence and Order

It is Ordered:

4.1 Defendant shall pay to the Clerk of this Court:

JASS CODE	\$ <u>TBD</u>	Restitution to: <u>Birkenfeld Family</u>	
RTN/RJN	\$ _____	Restitution to: _____	
	\$ _____	Restitution to: _____	
Name & Address-Address may be withheld and provided confidentially to Clerk's Office			
PCV	\$ <u>500.00</u>	Victim Assessment	RCW 7.68.035
	\$ _____	Domestic Violence assessment	RCW 10.99.080
CRC	\$ <u>200.00</u>	Court costs including	RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190.
		Criminal Filing Fee	\$ <u>200.00</u> FRC
		Witness costs	\$ _____ WFR
		Sheriff service fees	\$ _____ SFR/SFS/SFW/WRF
		Jury demand fee	\$ _____ JFR
		Extradition Cost	\$ _____ EXT
		Other	\$ _____
PUB	\$ _____	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ _____	Court appointed defense expert and other defense costs	RCW 9.94A.760
FCM/MTH	\$ _____	Fine RCW 9A.20.021; <input type="checkbox"/> VUCSA chapter 69.50 RCW	
		<input type="checkbox"/> VUCSA additional fine deferred due to indigency	
		RCW 69.50.430	
CDF/LDI/FCDS	\$ _____	Drug enforcement fund of:	RCW 9.94A.760
NTF/SAD/SDI		_____	
CLF	\$ <u>100.00</u>	Crime lab fee <input type="checkbox"/> suspended due to indigency	RCW 43.43.690
	\$ <u>100.00</u>	Felony DNA collection fee <input type="checkbox"/> not imposed due to	

hardship

RCW 43.43.7541

RTN/RJN \$ _____ Emergency response costs (Vehicular Assault, Vehicular Homicide only, \$1,000 maximum) RCW 38.52.430

\$ 500.00 Other costs for: Skamania County Sheriff's Office Investigation Fund

\$ 1400.00 TOTAL

RCW 9.94A.760

[X] The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

[X] shall be set by the prosecutor.

[] is scheduled for .

[] Restitution Schedule attached.

[] Restitution ordered above shall be paid jointly and severally with:

Name of other defendant Cause Number (Victim's name) (Amount-\$)

RJN

[] The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

[X] All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ 25 per month commencing MAY 1, 2007. RCW 9.94A.760.

The defendant shall report as directed by the clerk of the court and provide financial information as requested. RCW 9.94A.760(7)(b).

[] In addition to the other costs imposed herein, the court finds that the defendant has the means to pay for the cost of incarceration and is ordered to pay such costs at the rate of \$50.00 per day, unless another rate is specified here: _____. (JLR) RCW 9.94A.760.

The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

4.2 DNA Testing. The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release

from confinement. RCW 43.43.754.

[] HIV Testing. The defendant shall submit to HIV testing. RCW 70.24.340.

4.3 The defendant shall not have contact with _____

(name, DOB) including, but not limited to, personal, verbal, telephonic, written or contact through a third party for life (not to exceed the maximum statutory sentence).

[] Domestic Violence No-Contact Order, Antiharassment No-Contact Order, or Sexual Assault Protection Order is filed with this Judgment and Sentence.

[] The defendant is ordered to reimburse _____ (name of electronic monitoring agency) at _____, for the cost of pretrial electronic monitoring in the amount of \$ _____.

4.4 Other: _____

4.5 Confinement Over One Year. The defendant is sentenced as follows:

(a) Confinement. RCW 9.94A.589. Defendant is sentenced to the following term of total confinement in the custody of the Department of Corrections (DOC):

<u>123</u> months on Count <u>I</u>	_____ months on Count _____
-------------------------------------	-----------------------------

Actual number of months of total confinement ordered is: _____.

(Add mandatory firearm, deadly weapons, and sexual motivation enhancement time to run consecutively to other counts, see Section 2.3, Sentencing Data, above.)

[] The confinement time on Count(s) _____ contain(s) a mandatory minimum term of _____.

All counts shall be served concurrently, except for the portion of those counts for which there is a special finding of a firearm, other deadly weapon, sexual motivation, VUCSA in a protected zone, or manufacture of methamphetamine with juvenile present as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: _____

The sentence herein shall run consecutively with the sentence in cause number(s) _____

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: _____

- (b) Confinement. RCW 9.94A.712 (Sex Offenses only): The defendant is sentenced to the following term of confinement in the custody of the DOC:

Count _____ minimum term _____ maximum term _____

Count _____ minimum term _____ maximum term _____

- (c) The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The time served shall be computed by the jail unless the credit for time served prior to sentencing is specifically set forth by the court: _____

4.6 [] Community Placement is ordered as follows:

Count _____ for _____ months; Count _____ for _____ months;

Count _____ for _____ months; Count _____ for _____ months.

- [] Community Custody for count(s) _____, sentenced under RCW 9.94A.712, is ordered for any period of time the defendant is released from total confinement before the expiration of the maximum sentence.

[X] Community Custody is ordered as follows:

Count I for a range from 24 to 48 months;

Count _____ for a range from _____ to _____ months;

Count _____ for a range from _____ to _____ months;

or for the period of earned release awarded pursuant to RCW 9.94A.728(1) and (2), whichever is longer, and standard mandatory conditions are ordered. [See RCW 9.94A.700 and .705 for community placement offenses, which include serious violent offenses, second degree assault, any crime against a person with a deadly weapon finding and chapter 69.50 or 69.52 RCW offenses not sentenced under RCW 9.94A.660 committed before July 1, 2000. See RCW 9.94A.715 for community custody range offenses, which include sex offenses not sentenced under RCW 9.94A.712 and violent offenses committed on or after July 1, 2000. Use paragraph 4.7 to impose community custody following work ethic camp.]

On or after July 1, 2003, DOC shall supervise the defendant if DOC classifies the defendant in the A or B risk categories; or, DOC classifies the defendant in the C or D risk categories and at least one of the following apply:

a) the defendant committed a current or prior:

i) Sex offense ii) Violent offense iii) Crime against a person(RCW 9.94A.411)

iv) Domestic violence offense (RCW 10.99.020) v) Residential burglary offense

vi) Offense for manufacture, delivery or possession with intent to deliver methamphetamine including its salts, isomers, and salts of isomers,

vii) Offense for delivery of a controlled substance to a minor; or attempt, solicitation or conspiracy (vi, vii)

b) the conditions of community placement or community custody include chemical dependency treatment.

c) the defendant is subject to supervision under the interstate compact agreement, RCW 9.94A.745.

While on community placement or community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while in community custody; (6) pay supervision fees as determined by DOC; (7) perform affirmative acts necessary to monitor compliance with the orders of the court as required by DOC; and (8) for sex offenses, submit to electronic monitoring if imposed by DOC. The residence location and living arrangements are subject to the prior approval of DOC while in community placement or community custody. Community custody for sex offenders not sentenced under RCW 9.94A.712 may be extended for up to the statutory maximum term of the sentence. Violation of community custody imposed for a sex offense may result in additional confinement.

[X] The defendant shall not consume any alcohol.

[X] Defendant shall have no contact with:
NICOLE Birkenfeld and her children, LARRY BIRKENFELD, DAWN BIRKENFELD

[] Defendant shall remain [] within [] outside of a specified geographical boundary, to wit: _____.

[] Defendant shall not reside in a community protection zone (within 880 feet of the facilities or grounds of a public or private school). (RCW 9.94A.030(8)).

[] The defendant shall participate in the following crime-related treatment or counseling services: _____.

[] The defendant shall undergo an evaluation for treatment for [] domestic violence [] substance abuse

[] mental health [] anger management and fully comply with all recommended treatment.

[] The defendant shall comply with the following crime-related prohibitions: _____.

[X] Other conditions: See 'Appendix A'.

[] For sentences imposed under RCW 9.94A.712, other conditions, including electronic monitoring, may be imposed during community custody by the Indeterminate Sentence Review Board, or in an emergency by DOC. Emergency conditions imposed by DOC shall not remain in effect longer than seven working days.

4.7 [] **Work Ethic Camp.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic camp and the court recommends that the defendant serve the sentence at a work ethic camp. Upon completion of

work ethic camp, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions below. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of total confinement. The conditions of community custody are stated above in Section 4.6.

- 4.8 **Off Limits Order.** (known drug trafficker) RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: _____.

V. Notices and Signatures

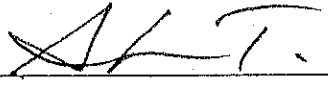
- 5.1 **Collateral Attack on Judgment.** Any petition or motion for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, must be filed within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.
- 5.2 **Length of Supervision.** For an offense committed prior to July 1, 2000, the defendant shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. For an offense committed on or after July 1, 2000, the court shall retain jurisdiction over the offender, for the purpose of the offender's compliance with payment of the legal financial obligations, until the obligation is completely satisfied, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court is authorized to collect unpaid legal financial obligations at any time the offender remains under the jurisdiction of the court for purposes of his or her legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).
- 5.3 **Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections or the clerk of the court may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.
- 5.4 **Restitution Hearing.**
[] Defendant waives any right to be present at any restitution hearing (sign initials): _____.
- 5.5 Any violation of this Judgment and Sentence is punishable by up


to 60 days of confinement per violation. RCW 9.94A.634.

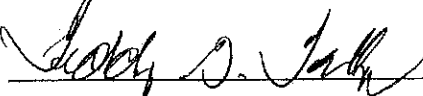
- 5.6 Firearms. You must immediately surrender any concealed pistol license and you may not own, use or possess any firearm unless your right to do so is restored by a court of record. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.
- 5.8 [] The court finds that Count _____ is a felony in the commission of which a motor vehicle was used. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke the defendant's driver's license. RCW 46.20.285.
- 5.9 If the defendant is or becomes subject to court-ordered mental health or chemical dependency treatment, the defendant must notify DOC and the defendant's treatment information must be shared with DOC for the duration of the defendant's incarceration and supervision. RCW 9.94A.562.
- 5.10 Other: _____.

DONE IN OPEN COURT in the presence of the defendant this date: 3-29-07


JUDGE E. THOMPSON REYNOLDS


Attorney for Defendant
WSBA # 7449
Print Name: STEVEN W. THAYER


Prosecuting Attorney
WSBA # 7174
Print Name: PETER S. BANKS


TEDDY GLENN TALLEY
Defendant

Voting Rights Statement: I acknowledge that my right to vote has been lost due to felony conviction. If I am registered to vote, my voter registration will be cancelled. My right to vote may be restored by: a) A certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) A court order issued by the sentencing court restoring the right, RCW 9.92.066; c) A final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) A certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 92A.84.660.

Defendant's signature: _____

CAUSE NUMBER of this case: 05-1-00111-7

I, SHARON K. VANCE, Clerk of this Court, certify that the foregoing is a full, true and correct copy of the Judgment and Sentence in the above-entitled action, now on record in this office.

WITNESS my hand and seal of the said Superior Court affixed this date: _____

Clerk of the Court of said county and state, by: _____ Deputy Clerk

IDENTIFICATION OF DEFENDANT

SID No. _____ Date of Birth 5-29-51
(If no SID take fingerprint card for State Patrol)

FBI No. _____ Local ID No. _____

PCN No. _____ Other _____

Alias name, SSN, DOB: _____

Race: Ethnicity: Sex:

☐ Asian/Pacific ☐ Black/African ☒ Caucasian ☐ Hispanic ☒ Male
Islander American

☐ Native ☐ Other: _____ ☐ Non-hispanic ☐ Female
American

FINGERPRINTS: I attest that I saw the same defendant who appeared in Court,
on this document affix his or her fingerprints and signature thereto.
Clerk of the Court: [Signature], Deputy Clerk.

Dated: March 29, 2007

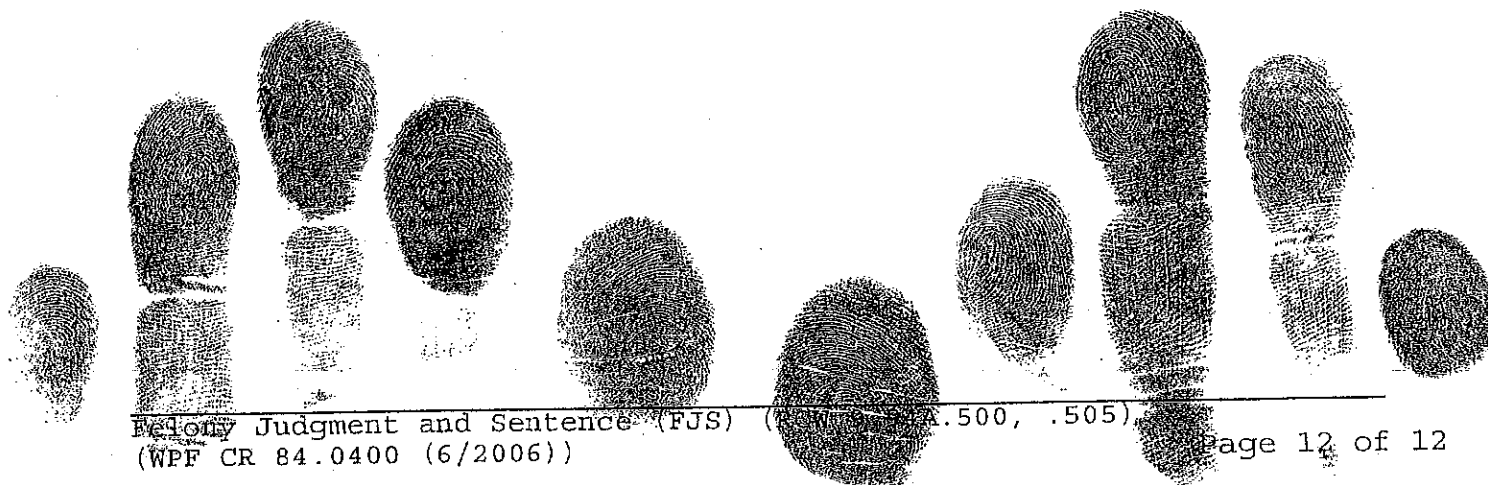
DEFENDANT'S SIGNATURE: [Signature]

Left 4 fingers taken
simultaneously

Left
Thumb

Right
Thumb

Right 4 fingers taken
simultaneously



APPENDIX "A"

- [] to devote time specific employment or occupation
- [] to pursue a prescribed course of secular study
- [✓] to notify the court or community corrections officer in advance of any change in defendant's address or employment
- [] to remain within prescribed geographical boundaries
- [✓] prohibited from the ownership, possession and/or control of any firearm or any deadly weapon as defined by statute.
- [] prohibited from the possession, control and/or consumption of alcohol.
- [] prohibited from the possession, control and/or consumption of any controlled substance.
- [] subject to random BAC, blood draw and/or urinalysis upon request of the Department of Corrections.
- [] required to obtain a substance abuse evaluation and fully comply with any recommended treatment.
- [] required to obtain an anger management evaluation and fully comply with any recommended treatment.
- [] restricted to travel within Skamania County, except as permitted by the Department of Corrections.
- [] subject to curfew as established by the Department of Corrections.
- [] prohibited from operating a motor vehicle without a valid operator's license and insurance as required by statute.
- [✓] required to be on his good behavior and have no further law violations.
- [✓] required to make regular monthly payments towards his legal financial obligations.

W. T. P. Smith, Judge
3/29/07

1
2
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4
5
6 IN THE SUPERIOR COURT OF THE
7 STATE OF WASHINGTON
8 IN AND FOR THE COUNTY OF SKAMANIA
9 STATE OF WASHINGTON,

10 Plaintiff,

11 vs.

12 TEDDY GLENN TALLEY,
13 DOB: 5-29-51
14 WMA: 5'08" 160 LBS
15 EYES: GRN

16 Defendant.

17 STATE OF WASHINGTON)
18 : SS
19 COUNTY OF SKAMANIA)

20 TO: THE SHERIFF OF SKAMANIA COUNTY

21 The defendant: TEDDY GLENN TALLEY has been convicted in the Superior Court
22 of the State of Washington of the crime of: MURDER IN THE SECOND DEGREE and
23 the Court has ordered that the defendant be punished by serving the
24 determined sentence of:

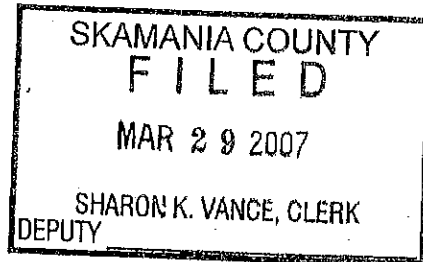
25 [X] / 23 months on Count I

26 [] _____ (days) (months) of partial confinement in the
County Jail

[] _____ (days) (months) of total confinement in the
County Jail

[] YOU, THE SHERIFF, ARE COMMANDED to receive the defendant for
classification, confinement and placement as ordered in the
Judgment and Sentence.

[X] YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant
to the proper officers of the Department of Corrections; and



NO. 05-1-00111-7

WARRANT OF COMMITMENT

1 YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to
2 receive the defendant for classification, confinement and placement as
ordered in the Judgment and Sentence.

3 [] The defendant is committed for up to thirty (30) days evaluation
4 at Western State Hospital or Eastern State Hospital to determine
amenability to sexual offender treatment.

5 YOU, THE SHERIFF, ARE COMMANDED to take and deliver the defendant to the
6 proper officers of the Department of Corrections pending delivery to the
proper officers of the Secretary of the Department of Social and Health
Services.

7 YOU, THE PROPER OFFICERS OF THE SECRETARY OF THE DEPARTMENT OF SOCIAL AND
8 HEALTH SERVICES, ARE COMMANDED to receive the defendant for evaluation as
ordered in the Judgment and Sentence.

9 DATED: MARCH 19, 2007 By Direction of the Honorable:

10 E. THOMPSON REYNOLDS

11 JUDGE

12 Shaun K Vance

13 Clerk

14 By: Paula L Seene Deputy

APPENDIX

B



STATE OF WASHINGTON
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APPLICABILITY
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OFFENDER/SPANISH MANUALS

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8/28/06

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NUMBER
DOC 350.100

POLICY

TITLE

EARNED RELEASE TIME

REVIEW/REVISION HISTORY:

Effective: 5/1/83
Revised: 3/1/86
Revised: 8/15/90
Revised: 7/1/96
Revised: 10/30/96
Revised: 12/1/98
Revised: 12/20/00
Revised: 3/3/05
Revised: 8/28/06

SUMMARY OF REVISION/REVIEW:

I.C. - Added additional offenses to the list in compliance with House Bill 5990
II.A. - Added amount of earned time for each calendar month in compliance with House Bill 5990
II.C. Changed requirements for updating OBTS from CCO to CRM
VI.C. Clarified time frame for notifying CRM of release date changes
VII.A. - Deleted; repetitive information
Added VII.B. to clarify CRM responsibilities
Removed VII.G. regarding persistent management problems since it was repetitive
VIII.A. Added information to clarify that Superintendent/CCS decision or denial of offender's request to restore time is final
VIII.B.2. Adjusted wording to clarify intent
VIII.B.3. - Added time frame for release planning and providing appropriate notifications
VIII.B.4. - Added PREA infractions
Added VIII.C.5. to include unit team recommendation as an item the Superintendent will consider
Added VIII.F. to require notification to the CRM when a release date is adjusted to ensure records are appropriately updated

APPROVED:

HAROLD W. CLARKE, Secretary
Department of Corrections

6/27/06

Date Signed



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POLICY

TITLE

EARNED RELEASE TIME

REFERENCES:

DOC 100.100 is hereby incorporated into this policy; RCW 9.92.151; RCW 9.94A.030; RCW 9.94A.505; RCW 9.94A.602; RCW 9.94A.728; RCW 9.95; RCW 69.50; RCW 69.52; WAC 137-28; WAC 137-56; ACA 4-4097; ACA 4-4449; ACA 4-4461; ACA 4-4480; DOC 320.150
Disciplinary Sanctions

POLICY:

- I. [4-4097] [4-4461] The Department will award Earned Release Time (ERT), which includes good conduct time and earned time credits, to offenders committed to Department facilities within the guidelines established by law.

DIRECTIVE:

- I. Good Conduct Time
 - A. For an offender convicted of a serious violent offense, or a sex offense that is a Class A felony committed on or after July 1, 1990, and before July 1, 2003, the earned release time may not exceed 15 percent of the sentence.
 - B. For offenders convicted of a serious violent offense, or a sex offense that is a Class A Felony committed on or after July 1, 2003, the earned release time may not exceed 10 percent of the sentence.
 - C. Effective July 1, 2003, the earned release time may not exceed 50 percent of the sentence for offenders who are classified as Risk Management (RM)-C and RM-D, and are not convicted of or have a prior:
 1. Sex offense,
 2. Violent offense,
 3. Crime against a person,
 4. Felony domestic violence,
 5. Residential burglary,
 6. Violation of, or an attempt solicitation, or conspiracy to violate RCW 69.50.401 by manufacture or delivery or possession with intent to deliver methamphetamine, or RCW 69.50.406 delivery of a controlled substance to a minor,
 7. Gross misdemeanor stalking, or
 8. Domestic violence court order violation, including gross misdemeanors.
 - D. In all other cases, the earned release time will not exceed 33 percent of the total sentence.



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- E. Offenders may fail to earn good conduct time if found guilty of serious infractions per WAC 137-28 or WAC 137-56, and sanctioned per DOC 320.150 Disciplinary Sanctions.
- F. A sentence reduction based on good conduct time will be established for each offender and computed on a pro rata basis for every 30-day period served, as allowed by crime category.
- G. All offenders sentenced for crimes committed on or after July 1, 1984, will be eligible for good conduct time, with the exception of those under the death penalty and/or life without the possibility of release. Offenders with mandatory minimum terms are not eligible for good conduct time while serving the mandatory minimum portion of their sentence. Good conduct time will be applicable to all Class A, B, and C felonies, with the following exceptions:
 - 1. Determinate offenders may not earn good conduct time if their minimum term has expired and they have not been paroled or transferred to a consecutive sentence.
 - 2. Offenders who are serving time as a result of lost earned time or lost good conduct time may not earn good conduct time.
- H. The following offenders may lose their uncertified or unvalidated good conduct time if found guilty of a serious infraction:
 - 1. Indeterminate offenders whose time has not been adopted by the Indeterminate Sentence Review Board (ISRB), and
 - 2. Determinate offenders serving time as a result of not earning earned time or having lost good conduct time.
- I. Good conduct time, lost as a result of disciplinary action for serious infractions, will not be certified by the facility Superintendent/Community Corrections Supervisor (CCS). This includes available good conduct time for offenders who are serving time as a result of lost good conduct time. The amount of time lost will be determined by the Disciplinary Hearing Officer/Committee and subject to the facility Superintendent/CCS approval at time of validation or certification. Offenders found guilty of infraction 557, 810, 813, or 857 for failing or refusing to maintain a work or education assignment will lose available earned release credits for the month and privileges.
- J. Offenders serving the mandatory minimum portion of their sentence are subject to a loss of future good conduct time available during the non-mandatory portion



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of their sentence. The available loss of good conduct time will be applied to the remainder of the sentence after the mandatory period is served.

- K. Offenders who commit infractions while out to court may be infraacted upon their return to Department custody.
- L. The facility Superintendent/CCS may request, via the Headquarters Community Steering Committee (HCSC), that the ISRB schedule a disciplinary hearing to address an indeterminate offender's time structure when all available good conduct time has been denied due to infractions.
- M. An offender who has transferred from one sentence within a cause number to the next sentence, or from one cause number to the next cause number, cannot lose earned release time associated with the previous sentence or cause.
- N. ISRB will be notified via email or hard copy, outlining the behavior and recommended action when an offender paroled from an indeterminate sentence to a consecutive determinate sentence commits an infraction. The report will note this behavior as a violation and describe the behavior and the recommended action.

II. Earned Time

- A. [4-4449] [4-4461] [4-4480] Offenders who participate in approved programs, including work and school, are eligible to earn earned time for each calendar month as follows:
 - 1. ET eligible under 10 percent rule 1.11 days
 - 2. ET eligible under 15 percent rule 1.76 days
 - 3. ET eligible under 33 percent rule 5.00 days
 - 4. ET eligible under 50 percent rule 10.00 days
- B. Offenders will not earn earned time if:
 - 1. [4-4449] They are not involved in mandatory programming as determined through the classification process and consistent with their offender facility plan. This includes refusing a mandatory work/school/program assignment or being terminated from a mandatory work/school/program for their own negative or substandard performance which has been documented.
 - a. Offenders found guilty of infraction 557, 810, 813, or 857 for failing or refusing to maintain a work or educational program assignment



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will lose available earned release credits for the month and privileges as outlined by DOC 320.150 Disciplinary Sanctions.

2. They refuse any transfer, excluding Work Release. Each refusal will result in the offender receiving an infraction 745. Earned time at the appropriate earned time percentage, as allowed by crime category, will not be granted for each calendar month the offender refuses assignment consistent with earned time.
 3. They serve 20 days or more in one calendar month in administrative or disciplinary segregation. Loss of earned release time will be calculated as allowed per crime category. The offender is not eligible to begin earning earned time until the Superintendent approves placement in general population. Offenders who are approved for transfer to general population and are scheduled for release to the community within 60 days will not lose earned time unless found guilty of infraction 557, 810, 813, or 857. Offenders on administrative segregation status for other than negative behavior will continue to earn earned time at the rate allowed by crime category.
 4. They are serving the mandatory minimum portion of their sentence. The Offender Based Tracking System (OBTS) DI45 will be updated to record the behavior.
- C. Earned time will be reviewed and recorded on the OBTS DI45 screen at the regularly scheduled review or during any month earned time is not earned. Work Release Community Corrections Officers (CCO) will provide documentation to the Correctional Records Manager (CRM) to update the OBTS DI45 screen prior to the scheduled review and prior to transfer to another facility. Counselors and Work Release CCOs will request a DA04 37 IIS Earned Release Credits Report. At a classification hearing where earned time will be addressed, the offender will receive a written record of his/her earned time at least 24 hours prior to the scheduled classification review if earned time is not earned. Action taken by the committee is final and cannot be appealed. At least once a year an offender will receive a written record of his/her earned time prior to classification.
- D. Earned time not earned as a result of infraction 557, 810, 813, or 857 cannot be restored.
- E. Offenders will receive a written record of earned time denials.

III. County Jail Earned Time



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- A. For offenders transferred from a county jail to the Department, the administrator of the county jail facility will certify to the Department the amount of time spent in custody at the jail facility and the amount of earned early release time. The Department does not calculate the earned release time for the county jails.

1. If no certification has been provided, or the certification is not clear, the Correctional Records Manager (CRM)/designee will send a letter to the jail administrator requesting s/he provide clarification.

IV. Re-sentenced Credit Time Served

- A. Offenders who are re-sentenced are entitled to receive credits for the original jail time, original jail good time, credit for Department of Corrections time served and credits for earned time on the Department of Corrections time served. All time the offender served for the underlying conviction as well as the earned early release time at the appropriate earned time percentage will be applied. Any conduct time loss, due to infractions, or earned time not earned during the time served on the original sentence, must be deducted from the Department of Corrections earned time.

V. Persistent Offender Misbehavior

- A. An offender serving an offense committed on or after August 1, 1995, who has lost all of his/her good conduct time credits for the current incarceration, may have future and/or un-validated earned time credits taken away as part of a disciplinary sanction per DOC 320.150 Disciplinary Sanctions.

VI. Release Date

- A. A determinate offender held beyond his/her Earned Release Date (ERD) may have available earned release time taken if found guilty of an infraction.
- B. An offender with an established release date who receives a Category A infraction after a community release plan has been approved will have the release date suspended until adjudication of the infraction and all time loss and sanctions are completed.
- C. The CRM will be immediately notified by telephone if the release date changes, when the offender is denied earned time or loses good time, and the earned release date is within 120 days to release.

VII. Recording/Validation Certification



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- A. The CRM will update the earned time on the OBTS DI45 screen. Entries on DI45 begin with the time start and subsequent entries will be from the first of each month. Entries will be made at the following times:
1. At the annual review
 2. At the request of the Indeterminate Sentence Review Board (ISRB)
 3. At the end of the longest concurrent sentence
 4. At the transfer from one cause to a consecutive cause
 5. At the time of a facility transfer
 6. Upon release
- B. Earned time and good conduct time will be reviewed and validated by the facility Superintendent/CCS at intervals not to exceed one year. At the time of his/her yearly review, each offender will receive a written record of the earned release time s/he is eligible to earn.
- C. Earned release time will be certified by the facility Superintendent/CCS or designee.
1. For indeterminate sentenced offenders, certification is final when adopted by the ISRB at the time of parole or time of transfer to a consecutive determinate sentence.
 2. If an offender is found guilty of an infraction after certification on the sentence s/he is currently serving, but prior to release, the certification may be rescinded.
- D. Prior to adoption by the ISRB for indeterminate sentences or certification by the facility Superintendent/CCS for determinate sentences, the projected earned release date should be used for classification purposes when considering minimum facility placement, Work Release, and pre-parole/community release planning.

VIII. Restoration of Good Conduct Time

- A. Offenders may request, at a regularly scheduled review, restoration of good conduct time from the facility Superintendent/CCS where the offender is housed. When restoration of time has been approved or denied for the infraction, the decision is final.
- B. The unit team may recommend approval provided:
1. The good conduct time on a determinate sentence has not been certified,



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2. The offender has been serious infraction free for at least one year from the date of the last serious infraction,
 3. The offender is not within 6 months of his/her earned release date and the restoration will not put the offender less than 120 days to release date,
 4. The offender has not committed infraction 501, 502, 507, 511, 521, 550, 601, 602, 604, 611, 612, 613, 635, 636, 637, 650, or 651, and
 5. The offender has not committed infraction 557, 810, 813, or 857 after June 15, 1995.
- C. When making this decision, the Superintendent will consider:
1. Length of positive program participation,
 2. Period of infraction-free behavior,
 3. Nature of offender infractions,
 4. Overall behavior over commitment period, and
 5. Unit team recommendation.
- D. A copy of DOC 20-402 Facility Plan and any associated documents, such as infraction reports, and a criminal history summary will be sent to the facility Superintendent/CCS. The facility Superintendent/CCS will complete DOC 21-730 Restoration of Good Conduct Time recommending restoration or denial of the good conduct time.
- E. Restoration of good conduct time will be documented in the narrative of the infraction on OBTS DI46 by disciplinary hearing staff.
- F. The CRM will be immediately notified by telephone when the release date is adjusted upon restoration of good conduct time.

IX. Community Custody

- A. The facility Superintendent/CCS will certify the earned release time and the transfer for eligible offenders to transfer to community custody.
1. Per RCW 9.94A.728, offenders convicted of the following offenses may have their sentences reduced by earned release time:
 - a. A sex crime,
 - b. An offense statutorily categorized as a serious violent offense,
 - c. Assault in the 2nd Degree,
 - d. Vehicular Homicide,
 - e. Vehicular Assault,



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- f. Assault of Child 2nd Degree,
 - g. Any crime against a person where it is determined, per RCW 9.94A.602, that the defendant or an accomplice was armed with a deadly weapon at the time of commission, or
 - h. Any felony offenses under RCW 69.50 or RCW 69.52.
2. Community Custody Violators confined in a Department facility for sanction time are eligible for earned release time credits at the rate of 33 percent.

DEFINITIONS:

Words/terms appearing in this policy may be defined in the glossary section of the Policy Manual.

ATTACHMENTS:

None

DOC FORMS (See Appendix):

DOC 20-402 Facility Plan
DOC 21-730 Restoration of Good Conduct Time

APPENDIX C

EXHIBIT

1



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

COPY**JAIL TIME CERTIFICATION**

The following information is requested for the purpose of crediting time spent in confinement prior to the transfer of the below listed subject:

NAME Talley, Teddy G. DOC 304090 DATE OF BIRTH: 05/29/51

COUNTY: SKAMANIA CAUSE 05-1-0011-7

Please list all dates of arrest and release plus earned early release credits concerning the above subject up to the Date of Transfer, then return to the address below. Thank you.

START DATE	END DATE	TOTAL DAYS SERVED	EARNED EARLY RELEASE CREDITS
10/28/05	03/29/07	516	0
/	/	/	/
/	/	/	/
/	/	/	/
/	/	/	/
/	/	/	/
/	/	/	/
/	/	/	/
/	/	/	/
/	/	516	0

SIGNATURE OF JAIL RECORDS OFFICIAL

03/29/07

DATE

RECORDS OFFICER, DEPARTMENT OF CORRECTIONS

DATE

Washington Corrections Center-Records
P. O. Box 900
Shelton, WA 98584

EXHIBIT

2

Non-emergency problems will be given close attention to prevent an emergency situation from happening. Pain medication such as aspirin or Tylenol will be administered when needed, and if medication on hand is not adequate, a doctor will be called for an assessment.

The Corrections Sergeant or his designee will make appointments as necessary for dental needs and arrange transportation to and from the dentist's office with adequate security. The costs will be deducted from an inmates funds when possible and paid for by the jail when necessary. Prescriptions for medications will also be paid for by inmates when funds are available.

GOOD TIME COMPUTATION:

Individuals sentenced to the Skamania County Jail Facility are eligible for a deduction from the length of their sentence in accordance with RCW 9.92.151. This "good time" shall be awarded on the following basis:

1. A sentence of thirty days or less - one day for each seven days served.
2. A sentence of more than thirty days - five days for each thirty days served.

Note: Only inmates willing and qualified to work on the "in custody work crew program", attending educational or treatment programs, or other work inside the facility shall be eligible for good time. These inmates must all be classified as medium or low risk inmates and be sentenced before they may be allowed to participate in these programs and begin earning "Good Time".

In addition to the above guidelines, sentenced inmates who are appointed to trustee status to work within the facility or outside of the facility may receive ten days per thirty days served. (This does not apply to convicted sex offenders unless the offense is classified as a victimless crime. In such cases they may earn the normal good time as outlined above.) Additional "good time" may be awarded to those trustees or other inmates who demonstrate, by their actions, an extraordinary effort on their part to earn additional good time. Additional "good time" shall be awarded only with approval of the Sheriff.

TRUSTEE STATUS:

Individuals who have been sentenced to the Skamania County Jail Facility are eligible for consideration as trustees, however, the fact that a person is sentenced does not mean that he/she will be allowed to become a trustee. In order to be considered for this position, an individual must not have any other charges pending, must display dependability and good hygiene habits. Trustees perform custodial tasks, laundry duties, and cooking and serving duties, and/or any other duties that may be assigned by the jail staff. As noted in item 16 above, above average effort as a trustee may earn the individual additional good time. To the contrary, a below average performance, or misconduct on the part of the trustee may cause that individual to lose his trustee status and be returned to the cellblock area. In addition, the prisoner may lose what extra good time he has accumulated as a trustee up to that point. Misconduct may result in criminal charges being placed against him.

EXHIBIT

3

Name: RCW 9.92.151

Location: RCW 9.92 CHAPTER

RCW 9.92.151

Early release for good behavior.

(1) Except as provided in subsection (2) of this section, the sentence of a prisoner confined in a county jail facility for a felony, gross misdemeanor, or misdemeanor conviction may be reduced by **earned release** credits in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction. The **earned early release** time shall be for good behavior and good performance as determined by the correctional agency having jurisdiction. Any program established pursuant to this section shall allow an offender to earn **early release** credits for presentence incarceration. The correctional agency shall not credit the offender with **earned early release** credits in advance of the offender actually earning the credits. In the case of an offender convicted of a serious violent offense or a sex offense that is a class A felony committed on or after July 1, 1990, the aggregate **earned early release** time may not exceed fifteen percent of the sentence. In no other case may the aggregate **earned early release** time exceed one-third of the total sentence.

(2) An offender serving a term of confinement imposed under RCW 9.94A.670(4)(a) is not eligible for **earned release** credits under this section.

[2004 c 176 § 5; 1990 c 3 § 201; 1989 c 248 § 1.]

NOTES:

Severability -- Effective date--2004 c 176: See notes following RCW 9.94A.515.

Index, part headings not law -- Severability -- Effective dates -- Application -- 1990 c 3: See RCW 18.155.900 through 18.155.902.

Application -- 1989 c 248: "This act applies only to sentences imposed for crimes committed on or after July 1, 1989." [1989 c 248 § 5.]

APPENDIX D

P//1 0 304090

07/18/07 14.23.46

IISO005

RELEASE DATE CALCULATION

PAGE 001

DOC NO: 304090 NME: TALLEY, TEDDY G. STA MAX: LIFE

STATUS: ACTIVE

COMMITMENT: "AA" COMM.STATUS: ACTIVE

"AA"

"AA"

"AA-AA"

TIME START DATE-----* 03/30/2007

+ MAX (10Y 3M 0D) 3743

- CREDIT TIME SERVED 516

+ OUT-TIME + WICKERT 0

+ CCI OUT/PAR ABSC TIME 0

MAXIMUM EXPIRATION DATE--* 01/29/2016

+ MIN (10Y 3M 0D) 3743

- CREDIT TIME SERVED(SRA) 516

- GOOD TIME (JAIL) 0

+ OUT-TIME + WICKERT 0 10%

MINIMUM EXPIRATION DATE--* 01/29/2016

+ MAND (0Y 0M 0D) 0000000

- CREDIT TIME SERVED 0

+ OUT-TIME + WICKERT 0

- EARNED RELEASE 0

MANDATORY EXPIR. DATE-----* 00/00/0000

TIME SERVED TO-DATE 626

MINIMUM EXPIR. DATE-----* 01/29/2016

GCT CERT.& ADDR. 0 0

GCT CERT. ONLY 0 0

+ GCT DENIED & ADDR. 0 0

+ GCT NOT CERTIFIED 0 0

FUTURE/UNCERT.GCT 215 215

ET I & II 6.30 6.30

+ ET NOT EARNED 0.00 0.00

FUTURE ET 101.27 101.27

EARNED RELEASE DATE-----* 03/12/2015

ADJ. EARNED RELEASE-----* 03/12/2015

EARLY POSS. REL. DATE-----* 03/12/2015

ADJ. EARLY POSS. REL-----* 03/12/2015

TIME REMAINING TO SERVE 2794

SANCTION ADMIT DATE-----*

SANCTION RELEASE DATE-----*

DATE: 03 18 08 NAME: TALLEY, TEDDY G. DOC NO: 304090
LOCATION: MCNEIL IS CORR CTR COUNSELOR: HG56

GOOD CONDUCT TIME

ON THIS SENTENCE FROM SKAMANIA COUNTY, 051001117 WITH A MINIMUM TERM OF 10 YEARS, 3 MONTHS, 0 DAYS, YOU HAD THE POTENTIAL TO EARN 215 DAYS OF GOOD CONDUCT TIME (GCT). FROM THE TIME START ON THIS CAUSE, 03/30/07 TO THE START OF THIS REPORTING PERIOD YOU HAVE LOST 0.00 DAYS OF GCT.

IN THIS PERIOD, 10/01/07 TO 03/01/08, YOU HAVE LOST OR WILL BE RECOMMENDED TO LOSE 0.00 DAYS OF GCT AS A RESULT OF INFRACTIONS.

THE AMOUNT OF GCT LOST MAY EXCEED THE AVAILABLE GCT FOR THIS PERIOD AND WILL BE SUBTRACTED FROM FUTURE TIME PERIODS. IF GCT DENIED AS A RESULT OF AN INFRACTION EXCEEDS AVAILABLE GCT ON THIS CAUSE, ONLY THE PORTION OF THE INFRACTION THAT CAN BE ADDRESSED ON THIS CAUSE WILL BE SHOWN ON THIS REPORT; HOWEVER, THE TOTAL AMOUNT OF THE SANCTION MAY BE REFLECTED ON OTHER CONCURRENT OR CONSECUTIVE CAUSES. IN NO EVENT WILL THE TOTAL AMOUNT OF THE INFRACTION SANCTION BE EXCEEDED.

INFRACTION CODE	DESCRIPTION	DATE	DAYS	
			DENIED	THIS CAUSE
	NONE			

YOU HAVE THE ABILITY TO EARN THE REMAINING 215.00 DAYS OF GOOD CONDUCT TIME ON THIS SENTENCE PROVIDED YOU RECEIVE NO INFRACTIONS RESULTING IN LOSS OF GOOD CONDUCT TIME CONSISTENT WITH PRESUMPTIVE SANCTION POLICY, AND WASHINGTON ADMINISTRATIVE CODE.

EARNED TIME

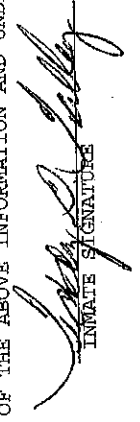
YOU HAVE A POTENTIAL TO EARN 107 DAYS EARNED TIME WHILE SERVING ON THIS SENTENCE. UP TO THE START DATE OF THIS REPORT, 10/01/07 YOU HAD EARNED 18.50 DAYS EARNED TIME AND NOT EARNED 6.00 DAYS OF EARNED TIME. IN THIS PERIOD 10/01/07 TO 03/01/08, YOU HAVE EARNED 15.20 DAYS EARNED TIME AND NOT EARNED 0.00 DAYS EARNED TIME.

YOU HAVE THE ABILITY TO EARN THE REMAINING 73.87 DAYS EARNED TIME CREDITS CONSISTENT WITH EARNED RELEASE POLICY AND MANDATORY SENTENCE REQUIREMENTS.

IF YOU ARE CURRENTLY SERVING ON MORE THAN ONE SENTENCE, THE AMOUNT OF EARNED TIME CREDITS WILL BE APPLIED PROPORTIONATELY DEPENDENT UPON THE AMOUNT OF TIME SERVED ON EACH INDIVIDUAL CAUSE DURING THIS PERIOD.

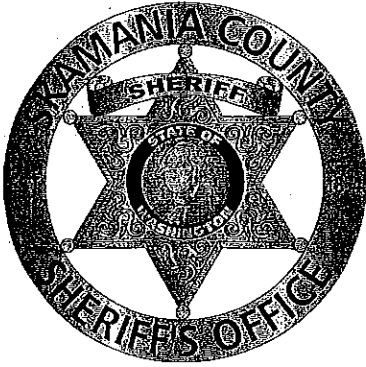
IF YOU ARE SERVING AN INDETERMINATE SENTENCE (OFFENSE OCCURED PRIOR TO JULY 1, 1984) THE INDETERMINATE SENTENCE REVIEW BOARD MAY, AT THEIR OWN DISCRETION, THROUGH A DISCIPLINARY HEARING, DENY EARNED TIME CREDITS CERTIFIED BY THE DEPARTMENT OF CORRECTIONS.

I HAVE RECEIVED A COPY OF THE ABOVE INFORMATION AND UNDERSTAND ITS CONTENT.

 3-18-08
INMATE SIGNATURE DATE

APPENDIX

E



DAVID S. BROWN
SHERIFF

OFFICE OF THE SKAMANIA COUNTY
SHERIFF

PO Box 790
200 Vancouver Ave.
Stevenson, WA 98648
Phone (509) 427-9490
Fax (509) 427-4369
www.skamaniasheriff.com
scso@co.skamania.wa.us

Dave Cox
Undersheriff

Pat Bond
Chief Criminal Deputy

Marlea McKenzie
Chief Civil Deputy

David Waymire
Jail Superintendent

Steven W. Thayer
Attorney

Re: Teddy Glenn Talley

Mr. Thayer,

This is in response to your letter dated July 13, 2007. I have already submitted the jail time certification for Mr. Talley. It does not show any earned early release credits (Good Time). The reason for this is as the RCW states facilities may reduce an inmate's sentence in accordance with procedures they have developed. We have a policy in place that states inmates may be given good time if they participate in one of our work programs. To be eligible for these programs you must be sentenced as well as be a medium or low risk inmate. Mr. Talley did not meet either of these requirements and therefore did not participate in any work programs while housed in the Skamania County Jail. For these reasons, Mr. Talley did not earn any early release time while serving time in the Skamania County Jail. If you have any further questions please feel free to contact me.

David Waymire
Chief of Corrections
Skamania County SO



DAVID S. BROWN
SHERIFF

OFFICE OF THE SKAMANIA COUNTY
SHERIFF

PO Box 790
200 Vancouver Ave.
Stevenson, WA 98648
Phone (509) 427-9490
Fax (509) 427-4369
www.skamaniasheriff.com
scso@co.skamania.wa.us

Dave Cox
Undersheriff

Pat Bond
Chief Criminal Deputy

Marlea McKenzie
Chief Civil Deputy

David Waymire
Jail Superintendent

Teddy Glenn Talley

Re: Good Time Policy

Mr. Talley,

This is in response to your letter dated February 17, 2008. This letter was sent to the Skamania County Clerk's office who does not have anything to do with setting up these policies. They forwarded it to me and I received it on February 28, 2008. I have already submitted the same information to your attorney Mr. Thayer back in July of 2007. I am sending the response I sent him as well as the documentation to go with it. The reason for no good time on the time served in our facility is as the RCW states facilities may reduce an inmate's sentence in accordance with procedures they have developed. We have a policy in place that states inmates may be given good time if they participate in one of our work programs. To be eligible for these programs you must be sentenced as well as be a medium or low risk inmate. You did not meet either of these requirements and therefore did not participate in any work programs while housed in the Skamania County Jail. For these reasons, you did not earn any early release time while serving time in the Skamania County Jail. If you have any further questions please feel free to contact me.

David Waymire
Chief of Corrections
Skamania County SO

APPENDIX

F

LEXSEE 2004 WASH APP LEXIS 1253

IN RE THE PERSONAL RESTRAINT PETITION OF: LONNIE DEE ROBERTS,
Petitioner.

No. 52275-2-1

COURT OF APPEALS OF WASHINGTON, DIVISION ONE

2004 Wash. App. LEXIS 1253

June 21, 2004, Filed

NOTICE: [*1] RULES OF THE WASHINGTON COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE WASHINGTON RULES OF COURT.

SUBSEQUENT HISTORY: Reported at *In re Pers. Restraint of Roberts*, 122 Wn. App. 1004, 2004 Wash. App. LEXIS 2042 (2004)

PRIOR HISTORY: Appeal from Superior Court of King County. Docket No: 86-1-03092-8. Date filed: 01/01/1800.

DISPOSITION: Petition denied.

COUNSEL: For Petitioner(s): Nancy P Collins, WA Appellate Project, Seattle, WA. Lonnie Roberts (Appearing Pro se), Airwayheights, WA

For Respondent(s): Donna H. Mullen, Attorney at Law, Attorney General Ofc, Olympia, WA.

JUDGES: Authored by Marlin J. Appelwick. Concurring: Ronald E. Cox, Susan R. Agid.

OPINION BY: Marlin J. Appelwick

OPINION

APPELWICK, J. - Lonnie Roberts filed a personal restraint petition challenging the Department of Correction's (DOC) calculation of his earned early release time. He argues that the DOC is depriving him of 840.99 days of earned early release time. He asserts that he should be able to substitute those days for the 545 days of good conduct time he lost through infractions for bad behavior. He further maintains that the DOC's earned release time policy constitutes a deprivation of his constitutional

rights to freedom from unlawful restraint, due process of law, and double jeopardy. We deny his petition.

FACTS

[*2] Following Lonnie Roberts' conviction for a 1986 murder, in 1987, the trial court imposed a sentence of 333 months' incarceration, with credit for 219 days served in jail, and with 109 days of jail good conduct time. Roberts began his sentence on August 5, 1987, and remains in the custody of the DOC.

Roberts was eligible for earned release time, which is defined in the *Washington Administrative Code (WAC) 137-28-160* as "the combined earned time and good conduct time credit an offender is eligible to earn off the minimum term established by the indeterminate sentence review board or the sentencing court." *WAC 137-28-160*. Good conduct time is "that portion of an inmate's potential reduction . . . which may be lost by receiving serious infractions" and earned time is "that portion of time an offender is eligible to earn for program participation . . ." *WAC 137-28-160*.

Roberts does not dispute that he lost 545 days of good time conduct and failed to earn 7.17 days of his possible earned time. His argument is that, as of February 13, 2002, he was entitled to 840.99 days of earned time which the DOC did not credit to him.¹ He reasons that if he were permitted to substitute those days [*3] for the good conduct time he lost he would be eligible for his original projected early release date of May 20, 2005.

1 The number of days of earned time Roberts had as of February 13, 2002, was 840.99, according to the February 13, 2002 Release Data Calculation sheets.

ANALYSIS

Roberts asserts that the DOC is depriving him of 840.99 days of earned early release time that should be

substituted for 545 days of good conduct time he lost due to disciplinary infractions.

Earned early release time is authorized by former *RCW 9.94A.150(1)*², which states in relevant part:

[T]he term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by earned release time in accordance with procedures that shall be developed and promulgated by the correctional agency having jurisdiction in which the offender is confined. The earned release time shall be good behavior and good performance, as determined by the correctional agency [*4] having jurisdiction. The correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits.

Former *RCW 9.94A.150(1)*. The former statute also states that the "aggregate earned release time may not exceed [15] percent of the [total] sentence." Former *RCW 9.94A.150(1)*. The right to receive earned early release credits may not be arbitrarily abrogated, or denied without minimum due process. *Wolff v. McDonnell*, 418 U.S. 539, 557, 94 S. Ct. 2963, 41 L. Ed. 2d 935 (1974).

2 Former *RCW 9.94A.150* (2000) (recodified at *RCW 9.94A.728* by Law 2001, ch. 10, § 6).

In accordance with former *RCW 9.94A.150(1)*, DOC Policy Directive 305.100 provides that an offender may earn early release credits for a "total sentence reduction [of] up to one-third of the minimum term set by the Board of [*5] Prison Terms and Paroles." Policy Directive at 1. Policy Directive 305.100 provides for two kinds of early release credits: "(1) good conduct time, and (2) earned time." Policy Directive at 1. For good conduct time, an eligible offender may be "eligible for sentence reduction credits of [10] days per 30-day month served." Policy Directive at 1. The 1983 version of DOC Policy Directive 305.100, in effect at the time Roberts was incarcerated, states that in addition to good conduct time credits of [10] days per 30-day month served, offenders who satisfactorily perform assigned jobs shall be authorized to receive an additional 5 days earned per 30-day month. 1983 Policy Directive. "Together, good conduct time and earned time comprise earned release time, which may be up to half (15 days per 30 days served) of the time served. In no case may the aggregate earned release time exceed one-third of the total sentence." ⁴ *Personal Restraint of Cromeenes*, 72 Wn. App.

353, 355, 864 P.2d 423 (1993) (emphasis added) (citations omitted).

3 DOC Policy Directive 350.100 has been revised since Roberts' incarceration, but its definitions of, and quotas for, good conduct time and earned time credits have remained the same as in the 1983 version of the Directive in effect at the time Roberts was incarcerated.

[*6]

4 Thus, former *RCW 9.94A.150(1)* contemplates an aggregate of good conduct time and earned time credits. The *WAC 137-28-160* defines early release time as "the combined earned time and good conduct credit" to which an inmate is eligible to receive as a sentence reduction. *WAC 137-28-160*. In the *Personal Restraint of Fogle*, following the DOC's computation of good conduct time and earned time, "[t]he DOC then combines the total good-conduct time and earned time, up to one-half of the days served, to determine the final sentence reduction, up to the statutory maximum of one-third of the imposed sentence." *Fogle*, 128 Wn.2d 56, 56-60, 904 P.2d 722 (1995) (citing *In re Williams*, 121 Wn.2d 655, 659, 853 P.2d 444 (1993)).

Roberts premises his argument that he has been denied earned time on a belief that "[u]pon his arrival, the Department applied a one-third reduction to his term of confinement for 'Good Conduct Time.'" Good time is earned at a rate of 10 days for each 30 days served, Roberts argues that since 10 is one-third of 30, [*7] his one-third possible reduction in sentence could be satisfied entirely by good time credit. Therefore, any earned time credits would be over and above the maximum one-third credit he can receive against his sentence. So, he reasons, any earned time credits should be available to offset any loss of good time credits. Roberts' premises are incorrect for several reasons.

First, former *RCW 9.94A.150(1)* provides that "[t]he correctional agency shall not credit the offender with earned release credits in advance of the offender actually earning the credits." Former *RCW 9.94A.150(1)*. Neither good conduct time nor earned time are final until certified by the Superintendent, Division Director, or designee at the end of the longest concurrent sentence, at the end of consecutive sentences under one cause, or at the time of transfer from one cause to a consecutive cause. Policy Directive at 2. Thus, Roberts is not entitled to earned release credits until they have been certified.

Second, an offender may earn a maximum of one-third off his sentence only as an aggregate of good conduct time and earned time. He cannot earn one-third

[*8] credit for good conduct time alone and additional credit for earned time.

Finally, accruing good time credits at the rate of 10 days for each 30 days served does not equal a one-third credit for good time alone. The sentence is reduced by 10 days for good time credit and by 30 days actual time served for a total of 40 days. The good time credit is one-fourth of the total sentence reduction credited.

If Roberts earned the maximum 5 days earned time credit, plus 10 days of good time credit, plus credit for 30 days actual time served, his total sentence reduction would be 45 days. The 10 days of good time credit, plus the 5 days of earned time credit, totaling 15 days, would be one-third of his total 45-day credit for time served in that 30-day period.

Roberts' original projected early release date presumed he would accumulate the maximum good time credits and the maximum earned time credits. Roberts accumulated 840.99 earned time credits. He failed to earn 7.17 credits of the maximum possible earned time credits. He does not have a credit balance of 840.99; he has an earned credit deficit of 7.17 credits. He has nothing in the way of earned credits accumulated to offset against his [*9] lost good time credits. Rather, he lost 545 days of good time credit and 7.17 days of earned early release time. He has lost a total of 552.17 days.

Notwithstanding Roberts's failure to show that he has been deprived of earned time credits, we are compelled to observe that the design of the DOC's early release calculation sheets is woefully confusing. No instructions, legend, or explanation sheet accompanies it, and its calculations are not transparent. It is difficult to conceive how the early release calculation sheet can possibly communicate any incentive to an inmate to earn credits.⁵ From an inmate's perspective, its lack of clarity well may seem unfair and at odds with *RCW 72.09.130*.⁶ However, the issue of whether this violates *RCW 72.09.130* is not before us. Roberts' petition is denied.

5 "The ability to earn early release credit creates an incentive for inmates to follow internal prison rules." *State v. Brown*, 142 Wn.2d 57, 60, 11 P.3d 818 (citing former *RCW 9.94A.150(1)*).

6 *RCW 72.09.130* provides:

(1) The department shall adopt, by rule, a system that clearly links an inmate's behavior and participation in available education and work programs with the receipt or denial of earned early release days and other privileges. The system shall include increases or decreases in the degree of liberty granted the inmate within the programs operated by the department, access to or withholding of privileges available within correctional institutions, and recommended increases or decreases in the number of earned early release days that an inmate can earn for good conduct and good performance.

(2) Earned early release days shall be recommended by the department as a reward for accomplishment. The system shall be fair, measurable, and understandable to offenders, staff, and the public. At least once in each twelve-month period, the department shall inform the offender in writing as to his or her conduct and performance. This written evaluation shall include reasons for awarding or not awarding recommended earned early release days for good conduct and good performance. An inmate is not eligible to receive earned early release days during any time in which he or she refuses to participate in an available education or work program into which he or she has been placed under.

(3) The department shall provide each offender in its custody a written description of the system created under this section.

RCW 72.09.130.

[*10] WE CONCUR:

APPENDIX

G

Date: March 11, 2008

TO: Sue Lay
Records Department
McNeil Island Corrections Center

From: Teddy Talley, #304090 D107
McNeil Island Corrections Center

Re: Earned Good Time of 10% Off My Entire Sentence

Ms. Sue Lay:

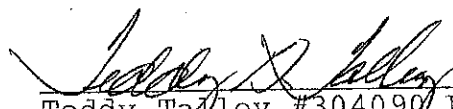
Equal protection requires good-time credit be granted for presentence incarceration (State v. Jones, 126 Wn. App. 136, 143, 107 P.3d 755 (2005) (citing, Mota, 114 Wn. 2d at 474)) "[w]hich requires that good-time credit be calculated on the basis of the total sentence, rather than the time served." In re Williams, 121 Wash. 2d 655, 659, 853 P.2d 444 (1993). "Department of Corrections failure to compute good-time credit on basis of total sentence or for presentence time in county jail did not further substantial interest of state and violated equal protection." Matter of Mota, 54 Wash. App. 252, 773 P.2d 129, affirmed and remanded 114 Wash. 2d 465, 788 P.2d 538 (1989).

In my case, the Department of Corrections failed to compute good-time credit on basis of my total sentence or for presentence time in county jail. Your records show 3424.25 ERD 03/12/15. The calculations in this case would be proper at: 3369.43 ERD 01/17/15. There is a difference in 55-days.

I should be allowed to earned Good Time of 10% off my entire sentence.

Please respond to my earned early release (ERD). Thank you for your time in the matter.

Respectfully submitted by,



Teddy Talley #304090 D107
McNeil Island Corrections Center
P.O. BOX 88-1000
Steilacoom, WA 98388-1000

cc: file

APPENDIX

H



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

INMATE'S KITE
PAPELETA DE PETICION DEL RECLUSO

INMATE NAME (PRINT) NOMBRE DEL RECLUSO (LETRA DE MOLDE)		
TAILEY, TEDDY		
DOC NUMBER / NUMERO DOC	UNIT, CELL / UNIDAD, CELDA	DATE / FECHA
304090	D-107-1	3-15-08
DESIRE INTERVIEW WITH OR ANSWER FROM / DESEA ENTREVISTA CON O RESPUESTA DE		
MICA / Records Department / Sue Lay		

☐ Interpreter needed for _____ (language).

REASON / QUESTION Necesito intérprete para _____ (idioma).
RAZON / PREGUNTA

Please find attached request for
correction of my ERD is "Good
Time Credit". Dated March 11, 2008.
Thank you for your time
& assistance in this matter.

MAR 19 2008

MCNEIL ISLAND CORR CTR
RECORDS OFFICE

Thank You!

SIGNATURE / FIRMA

DAYS OFF / DIAS LIBRES

RESPONSE

RESPUESTA

Good time credit need to be addressed
through the county jail where you
were incarcerated.

RESPONDER / PERSONA QUE RESPONDE

DATE / FECHA

D. H. Jones

4-30-08

Distribution: WHITE/YELLOW-Responder, YELLOW-Return to Offender with Response, PINK-Offender keeps
Distribución: BLANCA/AMARILLA-Persona que responde, AMARILLA-Devuelva al recluso con respuesta, ROSA-Se le
queda al recluso
DOC 21-473 E/S (7/2003) OCO



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

INMATE'S KITE
PAPELETA DE PETICION DEL RECLUSO

INMATE NAME (PRINT) NOMBRE DEL RECLUSO (LETRA DE MOLDE)		
TALLEY, Teddy		
DOC NUMBER / NUMERO DOC	UNIT, CELL / UNIDAD, CELDA	DATE / FECHA
304090	D-107-1	3-21-08
DESIRE INTERVIEW WITH OR ANSWER FROM / DESEA ENTREVISTA CON O RESPUESTA DE		
Sue Lay / Records Dept.		

☐ Interpreter needed for _____ (language),
Necesito intérprete para _____ (idioma).

REASON / QUESTION
RAZON / PREGUNTA

I would like to request a
"Release Date Calculation" or
I believe the form may be called
a "DI-17". I am trying to
understand the D.O.C. Calculations
formula & how that relates to
my sentence.
Thank you for your help!

SIGNATURE / FIRMA

Teddy D. Talley

DAYS OFF / DIAS LIBRES

Sat-Sun

RESPONSE
RESPUESTA

RECEIVED

Photocopies cost 20¢ per page. The document
you requested has 1 page for a
total cost of 20¢. Please submit
an "Inmate Handbook" to
Records along with a kite stating
what you want copied. If you have
sufficient funds, we will make
copies.

RESPONDER / PERSONA QUE RESPONDE

Susan Fay

DATE / FECHA

3/31/08

Distribution: WHITE/YELLOW-Responder, YELLOW-Return to Offender with Response, PINK-Offender keeps
Distribución: BLANCA/AMARILLA-Persona que responde, AMARILLA-Devuelva al recluso con respuesta, ROSA-Se le
queda al recluso
DOC 21-473 E/S (7/2003) OCO



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

INMATE'S KITE
PAPELETA DE PETICION DEL RECLUSO

INMATE NAME (PRINT) NOMBRE DEL RECLUSO (LETRA DE MOLDE)		
TAllen, Teddy		
DOC NUMBER / NUMERO DOC	UNIT, CELL / UNIDAD, CELDA	DATE / FECHA
304090	D-107-1	3-21-08
DESIRE INTERVIEW WITH OR ANSWER FROM / DESEA ENTREVISTA CON O RESPUESTA DE		
Sue Kay / RECORDS Dept.		

☐ Interpreter needed for _____ (language).
Necesito intérprete para _____ (idioma).

REASON / QUESTION
RAZON / PREGUNTA

I would like to request that you provide me with a written description of the system created under RCW 72.09.130 i.e. EARNED Early Release System.

Thank you for your time & assistance in this matter.

SIGNATURE / FIRMA

Teddy D. TAllen

DAYS OFF / DIAS LIBRES

Sat - Sun

RESPONSE
RESPUESTA

This process is detailed in the following policy:
DOC 350.100 Earned Release Time, rev 8/28/06

and is available for your viewing in the law library.

RESPONDER / PERSONA QUE RESPONDE

Julie H. Hest

DATE / FECHA

3-25-08

Distribution: WHITE/YELLOW-Responder, YELLOW-Return to Offender with Response, PINK-Offender keeps
Distribución: BLANCA/AMARILLA-Persona que responde, AMARILLA-Devuelva al recluso con respuesta, ROSA-Se le queda al recluso.
DOC 21-473 E/S (7/2003) OCO



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

INMATE'S KITE
PAPELETA DE PETICION DEL RECLUSO

INMATE NAME (PRINT) NOMBRE DEL RECLUSO (LETRA DE MOLDE)		
Talley, Teddy		
DOC NUMBER / NUMERO DOC	UNIT, CELL / UNIDAD, CELDA	DATE / FECHA
304090	D-107-1	4-1-08
DESIRE INTERVIEW WITH OR ANSWER FROM / DESEA ENTREVISTA CON O RESPUESTA DE		
Susan Lay / Records Dept.		

☐ Interpreter needed for _____ (language).
Necesito intérprete para _____ (idioma).

REASON / QUESTION
RAZON / PREGUNTA

As per your response dated 3/31/08
to have included a "Funds Transfer"
for the 20¢ cost of copies for
copy of my release date calculation
(DI-17)
Thank you for your time &
Help!

SIGNATURE / FIRMA

Teddy D. Talley

DAYS OFF / DIAS LIBRES

30 - 30

RESPONSE
RESPUESTA

This is a Public Disclosure Request
and should be sent to:

PUBLIC RECORDS OFFICER
PUBLIC DISCLOSURE UNIT
DEPT OF CORRECTIONS
P O BOX 41118
OLYMPIA WA 98504

RESPONDER / PERSONA QUE RESPONDE

Shirley

DATE / FECHA

4/10/08

Distribution: WHITE/YELLOW-Responder, YELLOW-Return to Offender with Response, PINK-Offender keeps
Distribución: BLANCA/AMARILLA-Persona que responde, AMARILLA-Devuelva al recluso con respuesta, ROSA-Se le
queda al recluso
DOC 21-473 E/S (7/2003) OCO



STATE OF WASHINGTON
DEPARTMENT OF
CORRECTIONS

OFFENDER'S KITE
PAPELETA DE PETICION DEL RECLUSO

OFFENDER NAME (PRINT) NOMBRE DEL RECLUSO (LETRA DE MOLDE)		
TALLEY, Teddy		
DOC NUMBER / NUMERO DOC	UNIT, CELL / UNIDAD, CELDA	DATE / FECHA
304090	D-107-1	4-11-08
DESIRE INTERVIEW WITH OR ANSWER FROM / DESEA ENTREVISTA CON O RESPUESTA DE		
SUE Lay / Records Dept.		

☐ Interpreter needed for _____ (language).
Necesito intérprete para _____ (idioma).

REASON/QUESTION
RAZON/PREGUNTA

SUE Lay, AS PER YOUR REQUEST, dated 3-31-08, I have included a "Funds Transfer" for the 20¢ cost of copies, for copies of my "Release Date Calculation" (DI-17)

Thank you for your time & attention!

SIGNATURE/FIRMA

RESPONSE
RESPUESTA

The document you requested is attached. 20¢ will be deducted from your account (1 page @ 20¢ per page).

RESPONDER/PERSONA QUE RESPONDE

DATE/FECHA

Distribution: WHITE/YELLOW-Responder, YELLOW-Return to Offender with Response, PINK-Offender keeps
Distribución: BLANCA/AMARILLA-Persona que responde, AMARILLA-Devuelva al recluso con respuesta, ROSA-Se le queda al recluso
DOC 21-473 E/S (11/26/07)



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

INMATE'S KITE
PAPELETA DE PETICION DEL RECLUSO

INMATE NAME (PRINT) NOMBRE DEL RECLUSO (LETRA DE MOLDE)		
TEDDY GLENN TALLEY		
DOC NUMBER / NUMERO DOC	UNIT, CELL / UNIDAD, CELDA	DATE / FECHA
304090	R5 - AGE	4-23-07
DESIRE INTERVIEW WITH OR ANSWER FROM / DESEA ENTREVISTA CON O RESPUESTA DE		
COUNCILOR LADE KODUS		

☐ Interpreter needed for _____ (language).
Necesito intérprete para _____ (Idioma).

REASON / QUESTION
RAZON / PREGUNTA

"ERD."? Question the time that
I was given by Skamania County
Jail -

— Oct 28, 2005 to March 30, 2007 —
I was incarcerated at Skamania County
Jail = 519 days plus "Good time" ???
Release date 3-12-13, is incorrect!
Thank you.

SIGNATURE / FIRMA

Teddy G. Talley

DAYS OFF / DIAS LIBRES

RESPONSE
RESPUESTA

County did not award you
any day GCT. (See attached)
You will need to write them to
have GCT awarded.

RESPONDER / PERSONA QUE RESPONDE

[Signature]

DATE / FECHA

4/25/07

Distribution: WHITE/YELLOW-Responder, YELLOW-Return to Offender with Response, PINK-Offender keeps
Distribución: BLANCA/AMARILLA-Persona que responde, AMARILLA-Devuelva al recluso con respuesta, ROSA-Se le
queda al recluso
DOC 21-473 E/S (7/2003) OCO



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

INMATE'S KITE
PAPELETA DE PETICION DEL RECLUSO

INMATE NAME (PRINT) NOMBRE DEL RECLUSO (LETRA DE MOLDE)		
TEDDY GLENN TALLEY		
DOC NUMBER / NUMERO DOC	UNIT, CELL / UNIDAD, CELDA	DATE / FECHA
304090	25 / A6	4-26-07
DESIRE INTERVIEW WITH OR ANSWER FROM / DESEA ENTREVISTA CON O RESPUESTA DE		
COUNCILOR KORUS		

☐ Interpreter needed for _____ (language).

REASON / QUESTION Necesito intérprete para _____ (Idioma).
RAZON / PREGUNTA

The "Release Date Calculation" received
4-25-07 (Thank you!) is incorrect!
Minimum Expir. Date: 1/29/2016
minus jail time served 516 days or
17 months gives a "Earned Release
Date" of 8/29/2014.
Actual days served in jail = 518. I
have requested a "Earned Release Credit"
to the jail - Thank you - (Please Reply)

SIGNATURE / FIRMA

DAYS OFF / DIAS LIBRES

RESPONSE
RESPUESTA

1/29/16 is your max date, your
your ERO is 3/12/15

Jail awarded you 516 day jail credit
& 0 day good conduct time.
If you still feel the date is wrong
Send Kite to offender records; note
show your math also.

RESPONDER / PERSONA QUE RESPONDE

DATE / FECHA

Distribution: WHITE/YELLOW-Responder, YELLOW-Return to Offender with Response, PINK-Offender keeps
Distribución: BLANCA/AMARILLA-Persona que responde, AMARILLA-Devuelva al recluso con respuesta, ROSA-Se le
quedó al recluso
DOC 21-473 E/S (7/2003) OCO

APPENDIX

I

April 15, 2008

From: Teddy Glenn Talley, D107-1, #304090
McNeil Island Corrections Center
P.O. BOX 88-1000
Steilacoom, WA 98388-1000

TO: Office Of The Secretary
Secretary, Eldon Vail
P.O. BOX 41101
Olympia, WA 98504-1101

In re: "Earned Release Time"

Dear Mr. Vail:

I'm writing in regards to my "Earned Release Time" which I believe the Department has erred in procedure, and/or by their calculations.

I was sentenced to 123-months (3743-days), to be served within the Department of Corrections. My sentence began on October 28, 2005. My "Maximum Release Date" in January 29, 2016. At 10% "Earned Release Time", I would serve 3369-days. My "Early Release Date" would be January 17, 2015.

The Department of Corrections errors in their March 12, 2015 calculations for my early release date by 55-days.

RCW 72.09.130(2) states that the only time an inmate is not eligible to receive early release days is during any time in which he or she refuses to participate in an available education or work program into which he or she has been placed under.

During my entire incarceration, I've never refused an available education or work program. And, I should not be penalized for the departments failure to develop programs in my situation, being no fault of my own. And, I've had no infractions during this time.

Furthermore, there are circumstances, where there are only limited availability of programs within the Department, yet inmates are able to reap the full benefits of "Earned Release

cc: file

1 of 2

Time", even during times, when programs are not available, being no fault of their own.

I should be allowed the fullness of "Earned Release Time" in my case similar to other inmates. Denying me "Earned Release Time" based on the unavailability of programs, creates an indifference, and violates 'Equal Protection'. Thank you for your time in this matter.

Sincerely yours,


Teddy Glenn Talley, #304090

April 16, 2008

From: Teddy Glenn Talley, D107-1, #304090
McNeil Island Corrections Center
P.O. BOX 88-1000
Steilacoom, WA 98388-1000

TO: Community Corrections Division
Offender Records
P.O. BOX 41126
Olympia, WA 98504-1126

In re: "Earned Release Time"

To whom this concerns:

I'm writing in regards to my "Earned Release Time" which I believe the Department has erred in procedure, and/or by its calculations.

I was sentenced to 123-months (3743-days), to be served within the Department of Corrections. My sentence began on October 28, 2005. My "Maximum Release Date" is January 29, 2016. At 10% "Earned Release Time", I would serve 3369-days. My "Early Release Date" would be January 17, 2015.

The Department of Corrections errors in their March 12, 2015 calculations for my early release date by 55-days.

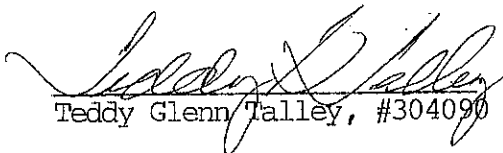
RCW 72.09.130(2) states that the only time an inmate is not eligible to receive early release days is during any time in which he or she refuses to participate in an available education or work program into which he or she has been placed under.

During my entire incarceration, I've never been infracted, and, I've never refused an available education or work program. And, I should not be penalized for the departments failure to develop programs in my situation, being not fault of my own.

Furthermore, there are circumstances, where there are only limited availability of programs within the Department, yet, inmates are able to reap the full benefits of "Earned Release Time", even during times, when programs are not available, being no fault of their own.

In conclusion, I should be allowed to the fullness of my "Earned Release Time" in my case similar to other inmates. Denying me my "Earned Release Time" based on the unavailability of programs, creates an indifference, and violates "Equal Protection". Thank you for your time in this matter.

Sincerely yours,


Teddy Glenn Talley, #304090

APPENDIX

J



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPEAL OF COMMITTEE DECISION

TO	FROM (Last and first name, number)	DATE
Van Boening/Superintendent	Talley, Teddy #304090 D107-1	04/16/08

REASON FOR APPEAL:

Explain in detail, discrepancies or differences of the report and briefly explain your version of what happened. List any procedural errors pertaining to the hearing and / or Notice of Hearing. Use this form to submit your appeal.

I was sentenced to 123-months (3743-days). My sentence began on October 28, 2005. My Maximum Release Date is January 29, 2016. At 10% Earned Release Time, I would serve 3369-days. My Early Release Date would be January 17, 2015. The Department errors in their March 12, 2015 calculations for my early release date by 55-days.

RCW 72.09.130(2) states that the only time an inmate is not eligible to receive early release days is during any time in which he or she refuses to participate in an available education or work program into which he or she has been placed under.

During my entire incarceration, I've never been inducted, and I've never refused an available education or work program. And, I should not be penalized for the departments failure to develop programs in my situation, being no fault of my own.

Further, there are circumstances, where there are only limited availability of programs within the Department, yet inmates are nevertheless, able to reap the full benefits of Earned Release Time, even during time, when programs are not available. In like manner, I should also be allowed to the full benefit of my Earned Release Time. Denying me Earned Release Time based on the unavailability of programs, creates an indifference, and violates "Equal Protection". Thank you for your time.

OFFENDER'S SIGNATURE



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

LEVEL 1 – INITIAL GRIEVANCE
NIVEL 1 - QUEJA INICIAL

Name: NOMBRE:	Last APELLIDO	First PRIMER NOMBRE	Middle 2DO NOMBRE	DOC Number NUMERO DOC	Facility/FACILIDAD	Unit/Cell UNIDAD/CELDA
Talley, Teddy				304090	MICC	D-107
Community Corrections Office OFICINA DE CORRECCIONES EN LA COMUNIDAD			Date Typed FECHA ESCRITA	PART B - OBTS INFORMATION INFORMACION DE OBTS		
			04/10/2008	Remedy/REMEDI	Resolution/RESOLUCION	Pending/PENDIENTE
				08	03	

PART A – INITIAL GRIEVANCE/ PARTE A – QUEJA INICIAL

Response due/Respuesta requerida en

I WANT TO GRIEVE: Application of policies, rules and procedures. The Department Of Corrections has inadvertently miscalculated my earned release time by 55 days. I was sentenced to 123 months (3743 days). My release date without earned release time is January 29, 2016. Because I have not refused any programs offered by the Department and have remained infraction free throughout my incarceration, I should receive full benefit of 10% earned release time. Given the 10% of 3743 days would place my release date at January 17, 2016 or 3369 days. This is an indifference of 55 days with the current earned release date of March 12, 2015.

SUGGESTED REMEDY: Correct the earned release time miscalculation of 55 days credit for 55 days indifference with the corrected earned release date of January 17, 2015.

/S/ Teddy Talley 04/06/08

	4-11-08		4-11-08
Grievance Coordinator Signature FIRMA DE COORDINADOR DE QUEJAS	Date FECHA	Grievant Signature FIRMA DE QUEJANTE	Date FECHA

PART B – LEVEL I RESPONSE / PARTE B RESPUESTA PRIMER NIVEL

Your complaint was investigated by MICC records who submitted the following response: Mr. Talley is receiving 10% DOC earned/good time, and his release date is correct. DOC time starts the day he is incarcerated, and earned good time is applied after jail credits have been deducted. He cannot receive DOC credit for the time he spent in county jail. Credit for this time comes from, and must be certified by the county jail. DOC is only responsible to see that these credits are applied to the length of sentence. Any changes to jail time must come from the county jail.

	5-1-08
Grievance Coordinator Signature COORDINADOR DE QUEJAS	Date FECHA

You may appeal this response by submitting a written appeal to the coordinator within two (2) working days from date this response was received. Ud. puede apelar esta respuesta al someter una apelación por escrito al coordinador dentro de dos (2) días de trabajo de la fecha en que esta respuesta fue recibida.



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPEAL TO LEVEL II
APELACIÓN AL 2DO NIVEL

NAME: NOMBRE:	LAST APELLIDO	FIRST PRIMER NOMBRE	MIDDLE 2DO NOMBRE	DOC NUMBER NUMERO DOC	FACILITY/ FACILIDAD	UNIT/CELL UNIDAD/CELDA
	Tsiley	Teddy		304080	MICC	D-107
COMMUNITY CORRECTIONS OFFICE OFICINA DE CORRECCIONES EN LA COMUNIDAD			DATE TYPED FECHA ESCRITA	PART B - OBTS INFORMATION INFORMACION DE OBTS		
			05/05/2008	REMEDY/REMEDI	RESOLUTION/RESOLUCION	PENDING/PENDIENTE
				08	09	

PART A - APPEAL TO LEVEL II/PARTE A - APELACIÓN AL 2DO NIVEL

Response due/Respuesta requerida en _____

I WANT TO GRIEVE: The County Jail Certified "No infractions". The judicial interpretation in applicable law determined that the Department Of Corrections was obligated to credit offenders under its jurisdiction with full good time credit for pre-sentence incarceration in County Jail. The courts decided the Department Of Corrections failure to compute good time credit on basis of total sentence and for pre-sentence time in County Jail did not further substantial interest of State and violated equal protection. The law requires that good time credit be calculated on the basis of the total sentence, rather than time served.

SUGGESTED REMEDY: Correct the earned release date miscalculation of 55 days credit for 55 days indifference with the corrected earned release date of January 17, 2015.

/S/ Teddy Tsiley 5/2/08

GRIEVANCE COORDINATOR SIGNATURE
FIRMA DE COORDINADOR DE QUEJAS

DATE
FECHA

GRIEVANT SIGNATURE
FIRMA DE QUEJANTE

DATE
FECHA

PART B - LEVEL II RESPONSE / PARTE B RESPUESTA 2DO NIVEL

You submitted a grievance contesting certification of earned release credit for time spent in jail. Ms. Susan Lay, Records Manager, investigated your grievance and submitted the following administrative response: RCW 9.94A.728 states in part, "The earned release time shall be for good performance, as determined by the correctional agency having jurisdiction". It further states, "If an offender is transferred from a county jail...a county jail facility shall certify to the Department the amount of time spent in the facility and the amount of earned release time".

The Department of Corrections is responsible to calculate your sentence based on the certification provided by the county. The Skamania County Jail gave you credit for 514 days jail time and did not give you any earned early release credit. This time has been applied to his sentence consistent with the jail certification Records received.

I concur. If you feel the jail certification is in error you will need to contact the county jail. DOC will make the appropriate adjustments if the county changes their certification.

SUPERINTENDENT, WORK RELEASE SUPERVISOR, FIELD ADMINISTRATOR SIGNATURE
SUPERINTENDENTE,

DATE
FECHA

You may appeal this response by submitting a written appeal to the coordinator within two (2) working days from date this response was received.
Ud. puede apelar esta respuesta al someter una apelación por escrito al coordinador dentro de dos (2) días de trabajo de la fecha en que esta respuesta fue recibida.

0808084



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

APPEAL TO LEVEL III
APELACIÓN AL 3ER NIVEL

NAME: NOMBRE:	LAST APELLIDO	FIRST PRIMER NOMBRE	MIDDLE 2DO NOMBRE	DOC NUMBER NUMERO DOC	FACILITY/ FACILIDAD	UNIT/CELL UNIDAD/CELDA
	Talley	Teddy		304090	MICC	D-10
COMMUNITY CORRECTIONS OFFICE OFICINA DE CORRECCIONES EN LA COMUNIDAD			DATE TYPED FECHA ESCRITA	PART B - OBTS INFORMATION / INFORMACION DE OBTS		
			05/27/2008	REMEDY/REMEDI	RESOLUTION/RESOLUCION	PENDING/PENDIENTE
				02	04	

PART A - APPEAL TO LEVEL III / PARTE A - APELACIÓN AL 3ER NIVEL

I WANT TO GRIEVE: June 18, 2008 response errors in that; 1) the county jail certified no loss of Good Time; 2) "Earned Release Time Credits" are determined on the basis of total sentence; 3) to deny, otherwise, creates an indifference because: i) class group (financial), ii) other inmates receive "Earned Early Release Time Credits" when programs are not available. Example: inmates sent out of state are allotted a \$55.00 gratuity a month and their "Earned Early Release credits" having insufficient programs available. There are offenders here at MICC not assigned to programs; 4th the "Department of Corrections" has jurisdiction to correct inadvertent mistakes brought by County Jail Certificates, and 5th the jail credit days given in the response, conflict with "Early Release Time" calculated by Olympia.

SUGGESTED REMEDY: Award the full benefit of Earned Early release credits for which I am entitled.

/s/ Teddy Talley 6/20/08

GRIEVANCE COORDINATOR SIGNATURE FIRMA DE COORDINADOR DE QUEJAS	DATE FECHA	GRIEVANT SIGNATURE FIRMA DE QUEJANTE	DATE FECHA
<i>[Signature]</i>	7-3-08		

PART B - LEVEL III RESPONSE / PARTE B - RESPUESTA 3ER NIVEL

I reviewed your initial grievance as well as all appeals and responses. The DOC Chief of Classification has also reviewed this matter. You have received credit for jail time served. The Department may only give you credit as certified by the jail. If you believe you are entitled to earned time on the jail time served your issue is with the jail facility, not the Department.

OCO DEPUTY SECRETARY/DESIGNEE
SUBSECRETARIO DE LA OCO/DESIGNADO

DATE
FECHA

Inside the Legislature

- * Find Your Legislator
- * Visiting the Legislature
- * Agendas, Schedules and Calendars
- * Bill Information
- * Laws and Agency Rules
- * Legislative Committees
- * Legislative Agencies
- * Legislative Information Center
- * E-mail Notifications (Listserv)
- * Students' Page
- * History of the State Legislature

Outside the Legislature

- * Congress - the Other Washington
- * TV Washington
- * Washington Courts
- * OFM Fiscal Note Website



RCWs > Title 9 > Chapter 9.94A > Section 9.94A.728

[9.94A.725](#) << [9.94A.728](#) >> [9.94A.7281](#)**RCW 9.94A.728****Earned release time.**

No person serving a sentence imposed pursuant to this chapter and committed to the custody of the department shall leave the confines of the correctional facility or be released prior to the expiration of the sentence except as follows:

(1) Except as otherwise provided for in subsection (2) of this section, the term of the sentence of an offender committed to a correctional facility operated by the department may be reduced by a portion of time in accordance with procedures that shall be developed and promulgated by the department having jurisdiction in which the offender is confined. The earned release time shall be for good conduct performance, as determined by the correctional agency having jurisdiction. The department shall not credit the offender with earned release credits in advance of the offender actually earning credits. Any program established pursuant to this section shall allow an offender to earn early release credits for presentence incarceration. If an offender is transferred from a county jail to the departmental administrator of a county jail facility shall certify to the department the amount of time spent in the facility and the amount of earned release time. An offender who has been convicted of a felony after July 23, 1995, that involves any applicable deadly weapon enhancements under RCW 9A.02.020, (4), or both, shall not receive any good time credits or earned release time for that portion of the sentence that results from any deadly weapon enhancements.

(a) In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 1990, and before July 1, 2003, the aggregate earned release time may not exceed fifteen percent of the sentence. In the case of an offender convicted of a serious violent offense, or a sex offense that is a class A felony, committed on or after July 1, 2003, the aggregate earned release time may not exceed ten percent of the sentence.

(b)(i) In the case of an offender who qualifies under (b)(ii) of this subsection, the aggregate earned release time may not exceed fifty percent of the sentence.

(ii) An offender is qualified to earn up to fifty percent of aggregate earned release time under this subsection (1)(b) if he or she:

(A) Is classified in one of the two lowest risk categories under (b)(iii) of this subsection;

(B) Is not confined pursuant to a sentence for:

(I) A sex offense;

(II) A violent offense;

(III) A crime against persons as defined in RCW 9A.02.011;

(IV) A felony that is domestic violence as defined in RCW 10.99.020;

(V) A violation of RCW 9A.52.025 (residential burglary);

(VI) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.401 by delivery or possession with intent to deliver methamphetamine; or

(VII) A violation of, or an attempt, solicitation, or conspiracy to violate, RCW 69.50.406 (delivery or possession of a controlled substance to a minor); and